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**PATHWAYS FOR AN INTERDISCIPLINARY ANALYSIS:
LEGAL AND POLITICAL DIMENSIONS OF THE EUROPEAN UNION'S
POSITION IN GLOBAL MULTILATERAL GOVERNANCE**

Sue Basu
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Abstract:

In recent years, the European Union (EU) has increasingly been perceived as an important actor in multilateral institutions at the global level, both within and beyond the United Nations (UN) system.

Research on this new topic of EU and global multilateral governance has been conducted by both legal scholars and political scientists, predominantly from the perspective of their respective disciplines. This has resulted in parallel, often unrelated research agendas.

This paper sets out to bridge this interdisciplinary divide by bringing these parallel research tracks together to enhance the overall understanding of the EU's position in global multilateral governance. To this end, a genuinely interdisciplinary framework of analysis is conceived and tested out on three distinct cases of EU participation in the UN system, thus demonstrating the value added, but also the limits, of interdisciplinary research on this topic. The paper concludes by mapping out a future joint research agenda: building on a number of cross-cutting research questions, it offers some possible pathways of how to conduct the type of interdisciplinary research needed to fully understand and explain the EU's contribution to global multilateral governance.

Key words:

European Union
Global Governance
Multilateralism
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1. INTRODUCTION¹

Since the middle of the 20th century, ‘multilateral governance’ has incrementally developed into what for many currently appears to be the (at least desired) default mode for the joint identification and solution of the world’s pressing problems.

For the purpose of this working paper, ‘multilateral governance’ is considered to be a mode of conducting global affairs that involves states, and (still only with the express permission of the ‘gate-keeping’ states) non-state actors, striving for a collective solution of global problems on the basis of rules.² The functional loci of ‘multilateral governance’ are multilateral fora, i.e. institutional set-ups which can reach from established international organizations over international regimes to loose ad hoc or soft law arrangements. Manifold examples of such multilateral fora exist, which include such diverse arrangements as the International Dolphin Conservation Programme or the Hague Conference on International Private Law, but also the set of bodies that form part of the United Nations (UN) system. As a matter of fact, a significant share of activities that could be referred to as multilateral governance is conducted under the auspices of the UN. Its complex architecture provides for a great many instances of multilateral negotiation processes, which have been chosen to serve as the primary source of examples used to illustrate our points in this paper.³

The study of processes and structures of these multilateral governance arrangements has engaged the disciplines of legal and political science alike.⁴ Both

¹ This paper has been written in the framework of the interdisciplinary research project “The EU and Global Multilateral Governance” conducted by the Leuven Centre for Global Governance Studies. The authors gratefully acknowledge the valuable comments of their promoters Professor Jan Wouters, Professor Hans Bruyninckx, Professor Stephan Keukeleire and Mr. Tim Corthaut. An earlier version of the paper was presented at an UACES conference entitled “The international role of the EU – New Patterns of Global Governance”, on 16 June 2007, in Birmingham. The authors would also like to thank the participants of this conference for helpful comments.

² This functional definition seems to be the most workable as a starting point for interdisciplinary research. It is based on definitions commonly found in political science: While ‘multilateralism’ has traditionally been defined as the “institutionalized collective action by [a] ... set of independent states” according to rules that “are publicly known and persist over a substantial period of time” (Keohane 2006: 1; Ruggie 1992), the more recent notion of ‘(global) governance’ widens the spectrum of possible participants in these collective action processes to other public and private actors than states and puts the emphasis as much on informal as on formal rules and procedures (Held/McGrew 2002: 8-9; Rosenau 2000).

³ While focusing on the UN for practical purposes, we do not intend to ignore multilateral fora outside the UN system. On the contrary, the conceptual framework proposed in this paper may also be applied to other instances of multilateral governance beyond the UN sphere.

⁴ Even though the term ‘multilateral governance’ may not be employed in legal science (yet) - and its definition remains contested in political science - we inspire ourselves by the functional political science definitions here by virtue of their necessary openness for the planned interdisciplinary endeavour. Such a pragmatic approach - especially with regard to terminology - may be a precondition for thinking about joint legal-political science research, as the development of basic common terminology may constitute too big of an obstacle to start with.

have thus also recently been able to discern a new trend relating to an increasing presence of other actors than states in multilateral negotiation processes. One, if not the most striking example of this latest trend is the European Union (EU). Its mounting prominence in many multilateral fora - especially, but not exclusively in the UN system - can be attributed to two essential factors: firstly, the EU has repeatedly committed itself to “effective multilateralism” as a means to improve global governance (European Council 2003; European Commission 2003). Secondly, even though the European Community (EC)⁵ has de jure and de facto been involved in the work of global multilateral institutions for decades (Brückner 1990; Pernice 1991), its reinforced multilateral activity has only really brought it wider recognition in recent years. The EU’s seemingly successful role in the setting up of the International Criminal Court and in the ratification process of the Kyoto Protocol are often cited as examples in this context (Groenleer/van Schaik 2005; Schubert 2000: 21).

As a fairly recent phenomenon, the EU’s participation in multilateral governance raises a number of questions interesting to both legal and political science scholars. Since the EU is neither a state, but displays in some policies state-like traits, nor a loose regime, although in some issue areas forms of coordination prevail, the first question that imposes itself is how such an entity can be accommodated by the various multilateral governance fora. Multiple other questions, e.g., on the consequences of the EU’s involvement in multilateral governance, follow from this. A precondition for answering questions of this type is sound legal and empirical research on the EU’s involvement in multilateral governance. Such research is considered a promising endeavour in (at least) two respects: 1. It can yield interesting insights bound to advance our understanding of the way policy-making at the global level currently functions. 2. It can help us understand both the historical evolution and the current status quo of the EU as a foreign policy actor.⁶

However, the relative newness of the phenomenon - a hybrid actor such as the EU playing a part in multilateral governance - is also the main obstacle to studying it. No firmly established catalogue of tools to analyse the subject area is currently available

⁵ It has become common to refer to the external activities of the European Community as actions of the ‘European Union’. In parts of the literature, the terms are sometimes confounded, which may also be an expression of the lack of interdisciplinary approaches. In this article, we use the term ‘EU’ whenever we mean actions of the Presidency, Member States, and/or the European Commission ‘acting on behalf of the whole of the Union’, and of the EC where this may be needed to be legally accurate.

⁶ One can speak of EU *foreign policy* as “the activity of developing and managing relationships between (...) the EU and other international actors, which promotes the domestic values and interests” of the EU (Smith 2003: 2) and of *European Union* foreign policy whenever genuine EU actors (Commission, Council) or EU member state actors act explicitly on behalf of the EU.

in any of the directly affected disciplines (International Law, International Relations, EU law, EU integration studies). On the background of this observation, we find it necessary to focus here not so much on *what* the EU is actually doing in multilateral governance processes, but to take one step back and look at *how to analyse* what the EU can do and is actually doing in multilateral governance processes: *What are suitable ways to study the position of the EU in multilateral governance?* The intention of this paper is to provide some answers to this question, as we claim that there are possible pathways that have not yet been explored in the existing literature on the topic.

Interdisciplinary research represents one such promising pathway, which can come itself in different ways, and a number of arguments will be presented to explicate why it merits more attention than it currently receives. The paper has been structured to substantiate this point: Based on a brief review of the currently available literature and a critical appreciation of the existing legal and political science approaches (2.1.), the paper argues in favour of an alternative, interdisciplinary approach (2.2) and subsequently introduces an exploratory interdisciplinary framework of analysis (3.) to investigate into the EU's position in multilateral governance. This analytical framework will be tried out on three illustrative examples of EU activity in the UN system. The results of this exercise will then be used as the foundation for outlining elements of an interdisciplinary research agenda, which may open further pathways for future joint legal and political science research (4.). To conclude, our main arguments and findings will be summarized and linked to a final plea for more collaborative research on the role of regional actors in multilateral governance (5.).

2. EXPLORING THE EU'S POSITION IN MULTILATERAL GOVERNANCE: CURRENT APPROACHES IN LEGAL AND POLITICAL SCIENCE, THEIR LIMITS AND THE RATIONALE FOR AN ALTERNATIVE

Starting off with a critical assessment of the currently fairly small, but growing bodies of literature on the EU's activities in multilateral governance (Jørgensen, 2007: 509) and of the typical ways of approaching the subject in both legal and political science, it will be argued that mono-disciplinary research on this topic displays certain flaws that an alternative, interdisciplinary approach could repair.

2.1. Current approaches to the study of the EU's position in multilateral governance in legal and political science

Based on brief reviews of the respective bodies of literature, this section will contrast legal and political science approaches to the topic of the EU's participation in multilateral fora to expose their virtues and limits.

2.1.1. Looking at the EU's role in multilateral governance through the lens of legal science

In **legal studies**, approaches to studying the EU's participation in multilateral institutions have principally taken two forms. Firstly, a few articles have been written from the perspective of *International Law* only (Sybesma-Knol 1997; Schermers 1983). The focus of these articles has primarily been on the access of non-traditional actors, who do not fulfill the formal criteria of a sovereign state to intergovernmental fora and on the consequences of their involvement in international organisations in general. The EU has often served as one of several case examples.

Secondly, most of the literature focusing on the EU's participation in multilateral institutions has started out from a 'bottom up' EU Law perspective and then *integrated the International and EU Law dimensions* (Eeckhout 2004; Koutrakos 2006; Govaere/Capiau/Vermeersch 2004; Lenaerts/de Smijter 1999; Marchisio 2002). Arguably, the core interest of this category of literature has been on the legal status of one of the outcomes of EU multilateral activity, namely 'mixed agreements'⁷ (Rosas 2000). If specific case examples of EU multilateral activity are discussed, they are predominantly chosen from the field of trade (Antoniadis 2004).

The following section will attempt to integrate these two legal approaches to provide an overview of what is generally and typically found in academic accounts of EU multilateral activity in the UN system exploring both the legal foundations and the institutional frameworks.

At the inception of the United Nations, a time when state actors prevailed over non-state actors in the international fora, the UN Charter only accounted for 'state' membership (Art. 4(1) UN Charter). In modern times, where there is a plethora of actors beyond individual states, questions and concerns arise of how such actors can play a role in a system that formally does not allow for their membership. This has been an increasing challenge for the European Union. In view of the EU being commonly labeled as *sui generis* (Wallace 1983), its very architectural composition is

⁷ A mixed agreement is an agreement concluded by the Community and its Member States because Community competences alone do not cover the entirety of the agreement.

what generates even more constraints than for any other actor not classified as a state wishing to participate in international fora.

The wide range of UN platforms such as the United Nations General Assembly, UN World Conferences, sessions of UN specialized agencies and treaty bodies set out the stage for actors to deliberate a variety of global issue areas. While membership to such fora may be limited to individual states⁸, apart from a few exceptions⁹, participation of non-conventional actors is nevertheless possible through a variety of means, such as, UN resolutions granting observer or full participant status, inclusion of a Regional Economic Integration Organization (REIO) or more recently a Regional Integration Organization (RIO) clause in international conventions, and, albeit rare, by making amendments and/or modifications to the desired body's constitution.

The different statuses currently available in the UN framework have been categorized as the following by Hoffmeister and Kuijper (2006): "1) full member; 2) full participant; and 3) observer" (cf. table 1). The main underlying differentiating factor between full-member status and the other two categories is the right to vote and/or block consensus. When an actor is granted full participant status, also referred to as an "*enhanced observer*", it is entitled to make amendments and proposals, serve as rapporteur, preside over meetings, and be invited to both formal and informal meetings without facing major time constrictions when making interventions. Actors awarded observer status on the other hand, must cope with the most restrictions whereby their presence may even be limited to only formal meetings. Furthermore, observers may only intervene after all official members and participants have made their interventions. Unlike full participant status, observers may not serve as a rapporteur nor can they preside over meetings (Hoffmeister/Kuijper 2006).

The inclusion of a REIO¹⁰ clause in an international agreement is an additional overture, enabling regional economic integration organizations to participate in the UN system. A REIO is commonly defined in UN protocols and conventions as "an organization constituted by sovereign states of a given region to which its member states have transferred competence in respect of matters governed by [...] convention or its protocols and [which] has been duly authorised, in accordance with

⁸ In accordance to Article 4 of the UN Charter.

⁹ Exceptions include EC accession to the FAO and EU accession to the Codex Alimentarius Commission.

¹⁰ Recent development have led the REIO clause to evolve to a RIO (regional integration clause). See the Convention on the Rights of Persons with Disabilities.

its internal procedures, to sign, ratify, accept, approve or accede to it [the instruments concerned].¹¹ Accordingly, REIOs, such as the European Community, may participate by way of concluding agreements, which on occasion establishes an organizational structure for all parties to the agreement, and thereby creating a pathway for future participation.¹²

Table 1: Overview: EC legal status in UN bodies¹³

Full Member	Full Participant	Observer	No Status
<ul style="list-style-type: none"> - FAO - Codex Alimentarius Commission 	<ul style="list-style-type: none"> - Commission on Sustainable Development - United Nations Conference on Environment and Development (1992) - World Conference Against Racism (2001) - World Summit on Sustainable Development (2002) - World Conference on Disaster Reduction (2005) 	<ul style="list-style-type: none"> - UNEP - UNDP - UNGA - UNHCR - ILO - UNICEF - UNRWA - WFP - UN-Habitat - ECOSOC - UNCTAD - WHO - WIPO - IAEA - UNESCO - World Conference on Human Rights (1993) 	<ul style="list-style-type: none"> - World Bank - IMF - UNSC - ICJ

The European Community and the European Union, not being *traditional* subjects of international law (Govaere/Capiau/Vermeersch 2004), generally find themselves constricted to observer status, while on occasion awarded with full participant status¹⁴ in the United Nations system including the UN General Assembly, specialized agencies and its funds and programmes. On 11 October 1974 the EEC was formally invited with a standing invitation under GA resolution 3208 (XXIV) to participate in the functions of the UNGA in the capacity of an observer, and later in

¹¹ See Articles 3(j) and 36 of the Cartagena Protocol on Biosafety; and Articles 4.1, 4.2, 4.3 and 4.5, 21 and 22 of the Kyoto Protocol.

¹² See UNGA Resolution establishing the UN Peacebuilding Commission A/RES/60/180 on 30 December 2005.

¹³ Extracted from Annex Inventory of the European Community Status at UN Bodies and Conferences in Wouters/Hoffmeister/Ruys (2006).

¹⁴ The EC has been awarded full participant in a variety of World Conferences such as the World Conference Against Racism (Durban, 2001), United Nations Conference on Environment and Development (Rio, 1992), Fourth World Conference on Women (Beijing 1995), and many others. The EC continues to be a full participant in the Commission on Sustainable Development.

1976 the EEC observer mission gained full diplomatic status in New York.¹⁵ As UN specialized agencies, funds and programmes all tend to follow in the shadow of the UNGA in respects to membership, the EC's membership predominantly remain(ed) constant horizontally. It is however important to note from the off-set that "community membership of international organizations stands in fairly sharp contrast to its treaty making activity" (Eckhout 2004: 200). This is primarily due to the complexities of the European Union's architectural framework, more specifically, the areas and range of Community competence parallel to the EU pillar structure.

The European Community, while endowed with legal personality under article 281 TEC, is limited by its areas of competence in both its internal¹⁶ and external activities. This paper will only focus on the latter while recognizing the notion of *implied powers* and that common internal rules laid down by the EC makes the EC competent in the field of external negotiations, moreover, recognizing that if the EC has internal competence to achieve a specific objective, it subsequently has external competence for the area in question.¹⁷ In its external relations the EC may only exercise its powers in matters addressing: development cooperation and economic and financial cooperation with third countries (Article 181 TEC); common commercial policy (Article 133 TEC); environmental protection (Article 174 TEC); and association agreements (Article 310 TEC). The EC also has the capability to conclude international agreements that fall under its competence umbrella (Article 300 TEC). It should be noted that the EC also has the capability to engage in external dimensions that affect internal policies¹⁸. When matters of shared competences arise, the EC is obliged to closely cooperate with Member States in order to define their position in unison.¹⁹ Furthermore, in areas of parallel competence, such as development policy, the Community and Member States may not exclude one another in the procedural process.²⁰ All concluded agreements however must not interfere with the autonomy of the Community legal order.²¹ In the course of EC activity in the UN system,

¹⁵ For a historical overview of the EU in the UN see Bruckner (1990).

¹⁶ ECJ Opinion 2/94 on accession by the Community to the ECHR, [1996] ECR I-1759; the court held its opinion that there was no legal basis for an accession of the EC to the ECHR.

¹⁷ See ECJ Case 22/70 ERTA [1971] and Opinion 1/76 Agreement on a European fund for decommissioning inland waterway vessels.

¹⁸ The European Community ratified the UNESCO Convention on Cultural Diversity on 16 December 2006. Cultural diversity is enshrined in Article 151 TEC.

¹⁹ ECJ Opinion 1/94 "Competence of the Community to conclude international agreements concerning services and the protection of intellectual property - Article 228 (6) of the EC Treaty", paras 16 -22.

²⁰ ECJ C-248/91 Parliament/Council and Commission, 1993 ECR I- 3685 para 16, see *supra* note 6.

²¹ This being said, it is necessary to highlight Article 103 of the UN charter which states "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." The consequences of this Article for the EU legal order have been recognized

including negotiating and concluding agreements, the Commission has the responsibility to ensure all appropriate relations with the organs of the UN and its specialised agencies are being maintained (Article 300 and 302 TEC).

The Treaty on the European Union on the other hand does not bestow the EU with legal personality. When matters under Title V (CFSP) TEU (second and third pillar) are being addressed in international fora under Article 24 TEU the Council of the European Union, on behalf of the EU can negotiate and conclude agreements with one or more states. In such cases the EU is represented by the Presidency (Article 18(1) TEU). Under the same heading, Member States are obliged to coordinate their action and uphold a common position in international organizations (Article 19 TEU).

In the United Nations system it is not uncommon to find fora that address issues falling under both EU and EC competence (on some occasions exclusive and non-exclusive creating another dimension to the complexity) areas, consequently external representation becomes a challenge. The 'Rome'/'Troika' formulas are mere attempts to remedy this problem enabling the Community to participate in the fora without a vote while permitting a representative of the European Commission and/or Presidency to act as a spokesperson. Not only does this have internal implications, it also affects how the international community perceives the EU/EC on the international stage.

Legal approaches to studying the position of the EU in multilateral fora are valuable because they allow for a comprehensive understanding of the legal foundations enabling the EU to be an actor and the institutional framework in which it can play a role. However, they rarely, if at all, explicate upon what the EU is actually doing in practice. To fill this void a political lens would be needed.

2.1.2. Looking at the EU's position in multilateral governance through the lens(es) of political science

Political scientists have tried out a variety of approaches to examine and account for the EU's performance on the international scene on the whole, though considerably less has been published specifically on its continual stated commitment to

and extensively analyzed by the CFI in Case T-306/01 *Yusuf and Al Barakaat International Foundation v Council* [2005] ECR II-3533, paras 231-240. An appeal against this judgment is currently pending before the ECJ as Case C-415/05 P *Yusuf and Al Barakaat International Foundation v. Council* [2006] OJ C 48/11.

multilateralism in the UN context (European Commission 2003) and its actual performance in specifically multilateral fora.

Broadly speaking, they have taken two main avenues to examine the EU's performance in multilateral governance: firstly, some authors have opted for 'top down' approaches, inspiring themselves either by classical *international relations theories* or the newer field of *global governance studies*. However, most accounts conceptualize and analyse global governance structures at length, while the EU itself as a fairly new actor on the global scene receives a lot less attention (Warleigh-Lack 2007; Andreatta 2005). An exception to this may be seen in the literature on global governance and regionalism, where the EU is often chosen as the prime example (Thakur/Van Langenhove 2006; Söderbaum/Van Langenhove 2005).

Secondly, and quantitatively much more importantly, within the discipline of *EU integration studies* a plethora of 'bottom up' contributions on the EU as a foreign policy actor have been produced, making use of the whole range of concepts and theoretical approaches developed in EU foreign policy analysis (Carlsnaes 2007). Only a small portion of these touch, however, explicitly on the EU's role in *multilateral* governance. A few of these have been conceptual in nature, mapping out the conditions for EU 'actorness' on the international scene (Jupille/Caporaso 1998; Meunier 2000). Others have analysed the EU's rhetorical commitment to multilateralism (Kacperczyk/Jasiński 2005; Biscop 2004). Some scholars have explicitly focused on the empirical record of the EU's participation in multilateral institutions (Smith/Laatikainen 2006; Ortega 2006), concentrating either on clearly delimited cases of EU participation in UN bodies such as the Security Council (Hill 2006) or on specific issues such as biosafety (Rhinhard/Keading 2006). Among the case studies chosen, trade and financial institutions (Meunier 2005; Kerremans 2004) have been as prominent as core Common Foreign and Security Policy (CFSP) issues (Tardy 2006). To a lesser extent, research has been conducted on the EU and environmental governance (Vogler 1999), development policy (Bretherton/Vogler 2006: 111-136), or human rights governance (Smith 2006). Most of the more comprehensive textbooks will contain a chapter on each of these (Bretherton/Vogler 2006; Hill/Smith 2005).

A survey of the currently available literature reveals, however, that one research approach recurs most frequently in various publications. This type of research has been mainly preoccupied with and has come - explicitly and in a quite sophisticated

manner (Elgström/Smith 2006) or implicitly (Bretherton/Vogler 2006; Hill/Smith 2005; Smith/Laatikainen 2006; Ortega 2005; Ginsberg 2001) - to assessments about the EU's 'role' on the international scene.²² According to this literature, and focusing here only on the UN, the EU seems to play different roles in different United Nations fora. Attributions range from 'active' over 'supportive' to 'reactive' and 'passive', or from 'leader' and 'front-runner' to 'laggard' and 'outsider', with many possible gradations in between (Sbragia/Damro 1999; Hoffmeister 2007; Laatikainen/Smith 2006: 10), suggesting different degrees of influence on outcomes. To name but a few examples across the whole range of the UN system, the EU has been attributed an active role on some environmental issues (Vogler 2003), where it has, e.g., been said to have gone from "laggard to leader" on climate change policies (Sbragia/Damro 1999: 53). The same trend towards greater involvement has been observed for other policies like its activities on human rights issues in the UN (Smith 2006), such as the set-up of the International Criminal Court (Schubert 2000: 21), its participation in global public health policy conducted under WHO auspices (Eggers/Hoffmeister 2006) or its activities within UNESCO (Cavicchioli 2006). In other cases, the EU has, however, been seen as not living up to the expectations created, inter alia, by its financial engagement, as in UNEP, a case further discussed below.

While the popularity of attaching a 'label' to the EU's performance in a specific forum is seemingly unbowed, the bases on which such valuating statements have been made have varied. Many studies that culminate in a statement about the EU's role have, however, made use of an analytical framework that has been expressly conceived to evaluate the EU's capacity to act at the international level. Developed by Caporaso and Jupille (1998), who themselves draw on older work on the EU's "international presence" and actorness (Allen/Smith 1990; Sjöstedt 1977), this framework comprises four concepts defining EU capacity:

²² Investigations into the EU's potential role quite often part from or want to test the assumption that the EU should be playing a "leadership role" in (some) multilateral negotiations, as the EU itself has repeatedly expressed its desire to assume such a role.

1. *Recognition*, i.e. the formal and informal acceptance of the EU by others.
2. *Authority*, i.e. the EU's legal competence to act externally.
3. *Autonomy*, i.e. the EU's institutional distinctiveness and independence from others.
4. *Cohesion*, i.e. the degree to which the EU is able to formulate internally consistent policy preferences.

Some scholars have made explicit use of this catalogue of concepts in their research (Laatikainen 2004; Groenleer/van Schaik 2005; Kraack 2000), whereas many others have chosen concepts similar to the ones presented by the two authors (for examples, see the various chapters in Laatikainen/Smith 2006; to a certain extent also Meunier 2000), without, however, treating all four categories with the same degree of diligence.

Taking Caporaso's and Jupille's four criteria as starting points to account for the role of the EU in multilateral fora, and going through each of them at a time, it is firstly expedient to stress their attempt at integrating legal elements into this framework via the concept of *authority*, which is meant to provide for a complete analysis of the competences on which EU foreign policy action is based. In practice, the use of this concept has often taken very superficial forms, though (Damro 2006), which can by no means compare to the type of in-depth legal analysis presented in the previous section.

The concept of *recognition* displays a de facto and a de jure dimension. To be recognized de facto, the EU would ideally have to be a distinctive, autonomous actor (*autonomy*). This would imply that it was clear to external actors who speaks and votes for the EU in a given forum and, at best, even across the whole multilateral system. That, however, is by no means the case. No stable patterns seem to exist, leading Delreux to sum up, with regard to negotiations in the environmental field: "Practice shows that (...) who speaks on behalf of the EU and who represents the EU is (...) subject to a large degree of variation" (Delreux 2006: 243). This observation can without problems be generalized to other policies.²³ Further

²³ To cite but a few examples, whereas the negotiations in some areas of shared competence, such as on recent conventions like the Tobacco Control Framework Convention or the Cultural Diversity Convention (in its final phase) were conducted exclusively by the Commission (Eggers/Hoffmeister 2006: 162-165; Cavicchioli 2006: 141-153), the Presidency remains the lead negotiator on climate change issues (Groenleer/van Schaik: 12). A representation arrangement may also be altered during the negotiation process, as was the case for the talks on the Cartagena Protocol on Biosafety in which the EU was first represented by the Commission, then by both the Commission and the Presidency and in the end again by the Commission only (Rhinhard/Kaeding 2006). Yet another constellation was found in the negotiations on 'International Health Regulations' under WHO auspices, where a model of

concerning de facto '*recognition*', few examples can be found in the literature that show where EU activity is clearly recognized as such and credit is given to the EU for its performance. Despite some exceptions (Lucarelli 2007; Chaban/Elgström/Holland 2006), a considerable lack of research about 'how others (really) see the EU' can yet be observed. The few examples where it is known that the EU has been de facto recognized for its activity include isolated cases like the ratification of the Kyoto Protocol, the setting up of the International Criminal Court, or the drafting of treaties like the Tobacco Framework Convention (Groenleer/van Schaik 2005; Eggers/Hoffmeister 2006). In these instances, the EU has - despite internal conflicts - been able to maintain a high degree of coherence on the outside and has therefore been recognized as a unitary actor by third states represented in the relevant UN fora and/or by civil society.

Finally, '*cohesion*', Caporaso's and Jupille's fourth category, is seen as a crucial condition for effective EU participation in UN fora. Although the concept has been quite often evoked, only little comprehensive research (Farrell 2006; Taylor 2006) has been conducted on the internal coordination mechanisms within the EU that precede its position-taking in various multilateral bodies.

In sum, while these four categories conceptually capture the most important aspects of EU multilateral activity, political scientists have - so far - really only done extensive empirical research on the autonomy concept. Recognition and cohesion still constitute fairly large research gaps, whereas the authority concept, which necessitates a look 'across the border' into legal studies, has not been given much attention. The discussion of Caporaso's and Jupille's analytical framework - as an example of one of the currently preferred ways political science deals with the issue of EU participation in multilateral governance - has thus demonstrated that the existing literature focuses very much on the EU's capacity to act in international fora.²⁴ Besides the research gaps evoked, this approach exhibits a number of shortcomings, which will be discussed in explicit comparison to the legal perspective in the following part.

"case-to-case decision who would speak without prejudice to the legal division of powers" emerged (Eggers/Hoffmeister 2006: 166).

²⁴ The discussion of only this analytical framework obviously can and does not do full justice to all accounts that exist in the literature. Our observation that this is one of the most widely used and cited approaches, which also has the virtue of being sufficiently open for linkages with legal concepts, may, however, account for its capacious usage in this paper.

2.1.3. The limits of mono-disciplinary research on the EU and multilateral governance

The brief review of the literature on the EU and multilateral governance and the presentation of a typical approach of how each discipline treats the subject matter reveal a number of intriguing observations.

Firstly, , this overview gives an idea of how complex the subject under study really is. Secondly, it testifies the legitimate desire of most scholars - in the face of this complexity - to limit the scope of their research. This, however, results in a significant problem: The focus both on a restricted theoretical and methodological perspective and on clearly delimited sections of social reality leads to several, at times almost unrelated bodies of literature within a single field of study. On the one hand, this is sometimes the case within each discipline. As both legal scholars and political scientists approach the subject predominantly from within their discipline, they are confronted with the same type of problem, i.e. overcoming the traditional dichotomy of separating the regional and the global level of analysis. On the legal side, as shown, the frontier between International and European Law, while still existent, has in many instances already been successfully overcome. In political science, however, the challenge of appreciating the “increasing mutual relevance” of International Relations and the regional approach of EU integration studies, which were “previously connected only by a slim isthmus” (Hill/Smith 2005: 389), has only recently been taken up.

On the other hand, the yet more significant tendency that can be observed is that the two disciplines, law and political science, are often kept analytically separate, or, in many instances, seem to entirely ignore each other's existence. Notable exceptions to this tendency do exist (Macleod/Hendry/Hyett 1998). The most recent example is a book edited by a group of international lawyers on UN-EU relations (Wouters/Hoffmeister/Ruys 2006) which contains a series of chapters combining legal analysis with insights into political reality, predominantly via the testimonies of practitioners.

This does not foil the overall picture that derives from the literature, though: Research on the topic has so far been largely characterized by an absence of multi-level and interdisciplinary perspectives.

Table 2 shows a 2x2 matrix that - taking the two central divides (global vs. regional level; legal vs. political science) as a starting point - sums up these findings by distinguishing between the four currently dominant dimensions of analysis of the

EU's role in multilateral governance. Few scholars have worked on the interfaces between any two of the quadrants - the International/EU law frontier may be an exception (Vanhamme 2001) -, or have taken into account aspects that would fall into the realm of a different discipline. The borders between the four dimensions have therefore remained fairly stable, if not , in some cases, impermeable.

Table 2: The four dimensions of research on the role of the EU in multilateral governance

	Legal studies	Political science
Global level	I International Law	III International Relations, Global Governance
Regional (European) level	II European Law	IV EU Integration Studies/ EU foreign policy analysis

While the observation expressed with this table may be considered 'normal' by scholars from each of the engaged disciplines - and rightly so if a plurality of perspectives is seen as an asset in itself -, we argue that the tendency to approach the subject from so many different standpoints can also be problematic, if these standpoints are not somehow set into relation with each other. A brief exercise of contrasting the two 'lenses', i.e. the mono-disciplinary approaches to the field of study, nicely exposes the virtues and limits of this way of thinking.

The classical way of approaching the subject from a legal perspective, as presented in part 2.1.1., focuses predominantly on the interpretation of case law and treaties when examining the EU's participation in multilateral (here: UN) fora. It goes into great depth in mapping the formal terms of EU participation in the UN system, but treats political reality in a rather anecdotic fashion.²⁵ Using solely legal analytical tools thus does not tell us much about, e.g., the ways the EU may informally interact with its negotiation partners. The legal status merely sets the foundation to which the EU can be an *actor*, the 'extra steps' that are needed to examine what is being done in practice have the propensity to be absent in legal literature. This results, however, in an incomplete picture of reality - an incompleteness which can ultimately also jeopardize the legal interpretation process itself, as the embeddedness of legal rules in social contexts calls for a thorough appreciation of these contexts in any (legal) interpretative process.

²⁵ It must be acknowledged here that the *living law dimension* was to an extent purposefully omitted, which may not do justice to all legal accounts.

In contrast to this, section 2.1.2. has identified the currently most widely used political science approaches to the subject of study. These are mostly concerned with empirical investigations into political reality with the aim of assessing the EU's actual performance in multilateral governance, and work thus mostly on those dimensions that are largely neglected by legal studies. In this type of research, the presentation of legal bits and pieces often does not live up to the full juridical complexities of the subject under discussion. Furthermore, this type of research tends to work with underspecified concepts such as 'autonomy' or, most prominently, the 'role' concept. Taking the latter as an example, it has been demonstrated that these role attributions are, firstly, not standardized, and, secondly, often made on varying grounds, without sufficient specification and/or testing of the underlying criteria. More nuanced, well-founded categories of roles would thus seem useful.²⁶ In more general terms, all concepts employed would ideally need to be refined, integrated in comprehensive analytical frameworks and then systematically built upon. Here political science could learn from legal science rigor: the latter's greater definitional density and often more precise language can be a real value added for the former.

Finally, this brief exercise of contrasting the mono-disciplinary approaches has shown that it would be desirable to broaden the scope of both legal and political science research. Important aspects such as internal coordination or external recognition of EU multilateral activity have not received the necessary attention and constitute currently genuine research gaps in one or the other or both disciplines. Furthermore, the global level itself, which constitutes the external environment for EU activity, has seemingly not yet been sufficiently examined with specific regard to the connecting factors for EU participation. The EU is not the only actor in these fora, and the potential to gain interesting insights by examining the power structures and traditional conflict-lines that may exist in some of these may be quite high. This would also constitute an important step towards fusing the (EU-centric) bottom up perspective more with a top down perspective.

In sum, it has been shown that current practice in both legal and political science produces a number of 'blind spots' in our field of study. These limits of mono-disciplinary research could be overcome if the synergies of the various approaches presented were exploited to a greater extent. Interdisciplinary approaches and sound

²⁶ First important conceptual work on this topic has only recently been presented (see Elgström/Smith 2006, especially Aggestam 2006).

conceptual frameworks to analyze instances of EU participation in multilateral governance can be considered as a possible solution.

2.2. The rationale for an alternative, interdisciplinary approach to studying the EU's role in multilateral governance

On the backdrop of the exposed limits of monodisciplinary studies, this paper has been written with the intention of stimulating a debate on more cross-cutting, multi-level and interdisciplinary research on multilateral governance, with a special focus on the EU as a fairly new actor in processes of governance at the global level. Starting from the notion that complex phenomena of governance demand to be studied via broader, more holistic approaches integrating the strengths and tool-kits of various disciplines, we call for a *widening of the perspective* on the EU's participation in multilateral fora. This implies: trying to integrate top down and bottom up approaches; attempting to overcome the interdisciplinary divide to dispose of a broader analytical tool-kit; and focussing on some of the under-researched issue areas beyond trade/finance and core CFSP business.²⁷

The rationale behind our calling for multidimensional approaches is three-fold. Firstly, under the current conditions, getting a fairly complete picture of the EU's participation, e.g., in a UN body, demands extensive literature search and the puzzling together of, at first sight, unrelated publications from several disciplines. This already protracted task is often complicated, or even rendered impossible, by the fact that the cases studied in legal and political science have often been incommensurable. From a *practical* viewpoint, interdisciplinary research could help to produce more 'all-in-one', holistic and therefore relevant accounts of how the EU fares in multilateral fora in practice. But working in an interdisciplinary manner is not just a question of being 'more complete' in grasping the complexity of the issues under discussion, a desire that may never be fully satisfied by social sciences. Another virtue of interdisciplinary research lies, secondly, in the fact that it yields greater synergies. On the role of the EU in multilateral governance, legal scholars and political scientists already do seem to share some interests and concerns, but often employ different terms to mean the same things, or only differ in small, yet important nuances. In this vein, both disciplines really need to overcome their tunnel visions and regard each other as complementary. Joint research may thus, from an *empirical-analytical point of view*, lead to richer accounts and yield insights that

²⁷ While priority will be given to the attempt to overcome the interdisciplinary divide in this article, the other two aims will *en passant* also be touched upon.

guarantee of politics informed by law” (Slaughter Burley 199 mono-disciplinary research might simply oversee.

Finally, from a more *normative perspective*, if “law informed by politics is the best 3: 239), then improving multilateral governance as a method to tackle the world’s problems passes by a thorough understanding of all its dimensions. Interdisciplinary research can play a decisive role in this regard.

An exploratory account of how to conceive and employ an alternative, interdisciplinary framework of analysis will be presented in the next section.

3. AN INTERDISCIPLINARY APPROACH TO EXPLORING THE EU’S POSITION IN MULTILATERAL GOVERNANCE

On the backdrop of the discussion of mono-disciplinary research on the EU’s role in multilateral fora, this section will introduce elements of an alternative approach that deliberately tries to overcome the divides between both the two disciplines and the intradisciplinary global/regional gap. The resulting framework of analysis will then be tried out on three exemplifying cases of EU participation in the UN system. Intentionally exploratory in nature, this exercise shall reveal some of the opportunities that such an approach may hold for future research on the topic, also by uncovering research gaps in the areas studied.

3.1 Building blocks of an interdisciplinary framework for the analysis of the EU’s role in multilateral governance

An interdisciplinary analytical framework for the study of the EU in multilateral governance would ideally incorporate the strengths of both the legal and the political science perspectives by building on existing approaches and concepts in both disciplines, as presented in the previous chapter, and trying to refine and extend them. Furthermore, its prime task would lie in the accentuation of the inter-linkages between the four different perspectives, which have so far often been treated as disparate (see Table 2). An approach that could be classified as “systematic eclecticism” - joining concepts across disciplinary borders - will be pursued in this section to conceive such a conceptual framework, based on a number of testable concepts.

Starting out with the global level, **international lawyers** have, as shown in the previous section, been mostly preoccupied with identifying and analysing the

international *legal status* of the EU in, e.g., the UN, and its membership to international organizations (Sack 1995). This is a very useful exercise as the status and the way it has been granted define the formal limits of EU participation and also yield information about the type of *formal recognition* that the multilateral body, i.e. the other members in this forum, has been willing to endow the Union with. Another significant category of legal analysis, namely the interpretation of the *rules of procedure* (tabling, voting, speaking etc.) seems of equal importance, since these rules determine the way business is conducted in a multilateral forum. The analysis of the rules of procedure is closely linked to the issue of status. If other actors in a multilateral forum enjoy a privileged status compared to the EU, disposing, hence, of more comprehensive rights under the rules of procedures, this represents obviously a competitive advantage for them in practice.

This consideration constitutes also the linkage point with the disciplines of **international relations and global governance studies**, which are mostly interested in the functioning - or the '*governance mode*' - of multilateral fora. This involves an analysis of the procedures mentioned but also of informal processes and, ultimately, of *power structures*. IR scholars would ask questions about symmetrical or asymmetrical capacities, access to and participation in multilateral governance (Barnett/Duvall 2005; Bahr/Falkner 2005; Koenig-Archibugi 2002; Young 1999). They are also much interested in the *de facto recognition* of the EU in these fora.

So, ideally, both the *de jure* and the *de facto* dimensions need to be investigated into. Finally, and this also links the global and the regional levels, the status the EU has been granted under international law is - analytically - connected with the concept of *role* employed by EU integration studies and IR, as discussed in a previous section. Since role is commonly understood as the "dynamic aspect of a status" (Linton 1936: 114), we can thus also identify a *de jure* (*status*) and a *de facto* (*role*) dimension to the very question of what *position* the EU occupies within a multilateral forum.

In a similar vein, European law and EU integration studies employ complementary categories in their analyses of the EU's participation in multilateral fora. From an **EU law perspective**, categories that define EU involvement in multilateral bodies have been mapped along the lines of its treaty-making capacities. Consequently, *competence* represents an important unit of analysis, so do the *internal decision-making rules* and any existing rules on who is to conduct multilateral negotiations (*representation*). Furthermore, the aim of these negotiations are frequently analysed

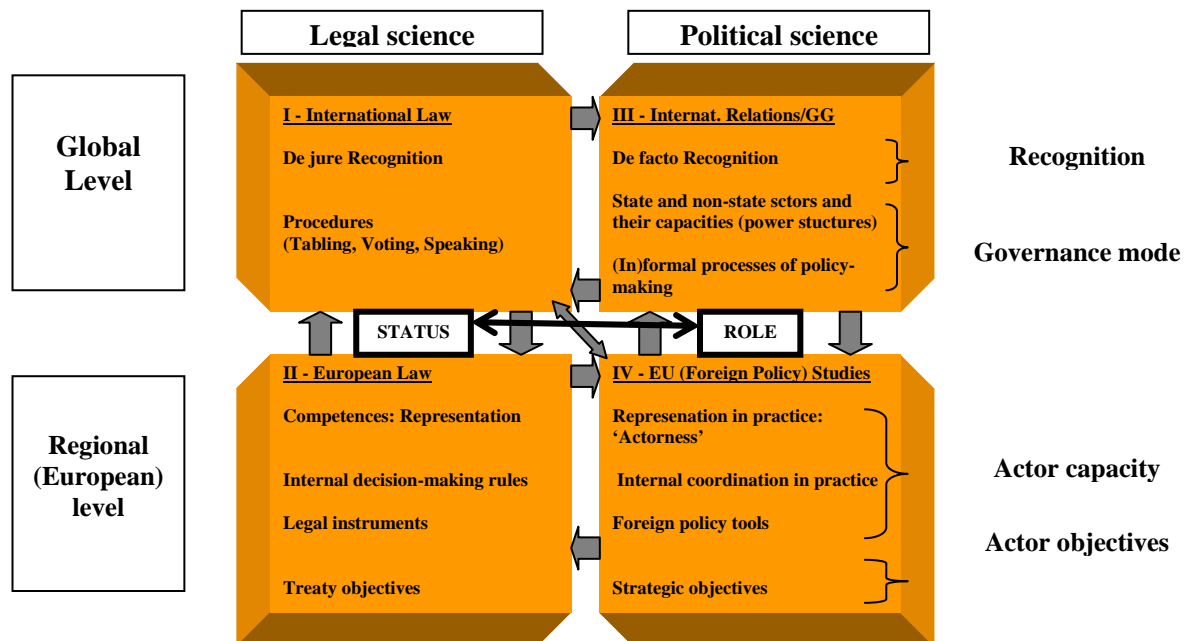
in terms of the *objectives defined in the Treaties* and the conduct of any multilateral negotiation will be explained by reference to the *legal instruments* the Treaties provide for.

EU integration studies, and specifically the sub-discipline of EU foreign policy analysis, on the other hand, have regularly been building - explicitly or implicitly - on the concepts established by Caporaso and Jupille, as outlined above. Special attention has been given to the notion of capacity that the EU possesses to act independently. This, in turn, depends crucially on two elements: internal 'cohesion', which can best be achieved via effective *internal coordination* - in a broad sense of the term, including informal internal negotiation processes between Member States -, and coherent *external representation*. The political scientists' interest in these categories mirror the concerns of legal scholars in internal decision-making and representation issues, but are again more oriented towards 'what is really going on', i.e. the pragmatic solutions that may be found in practice - as a result of internal negotiations, which thus also become a crucial unit of analysis - to decide who speaks for the EU, for instance. Adding to the categories of objectives and legal instruments in legal studies, political science will go beyond the formal competences and declared goals to look at various types of *strategic objectives*²⁸ (Keukeleire 1998: 21-28) as well as at the range of non-legal *foreign policy and external relations tools* such as informal diplomatic or informational tools (Keukeleire/MacNaughtan 2008).

All these categories taken together and related with one another across the frontiers of the disciplines constitute a fairly comprehensive framework to analyse the EU's role in multilateral governance. Figure 1 gives an overview of the various categories established and visualizes the linkages between them, showing that they often really represent the two sides of the same coin.

²⁸ The EU may pursue different types of objectives with its multilateral activity. Externally, it may be wanting to jointly solve problems on the international level, or to export its values or structures, or simply to assert its stance as an actor on the global level. As any foreign policy activity, a participation of the EU in multilateral governance may, however, also serve the internal, inter-relational goals of some Member States as opposed to others. In this vein, a multilateral activity could reinforce the internal policy choices of some Member States to the detriment of others. It may also strengthen the identity of the Union as a whole.

Figure 1: An interdisciplinary framework for the analysis of the position of the EU in multilateral governance



If we regroup the presented categories, a catalogue of four overarching concepts, each of them with a legal and a political science dimension to it, can be established. The EU's position in multilateral governance fora is seen here as a function of its legal status and actual role, which, in turn, are dependent on or closely related to these categories:

1. **Recognition**²⁹, i.e. the formal recognition of the EU as institutionalised via the granting of a legal status *and* its de facto recognition as an actor by other actors such as third countries, civil society representatives or public opinion.
2. **Governance mode**, i.e. the complex interrelationships between (state and non-state) actors with varying capacities in multilateral negotiation settings as well as the formal, as governed by its rules of procedure, and informal governance processes in a given multilateral body .
3. **Actor (EU) Capacity**³⁰, i.e. the legal competence, instruments and other rules guiding internal coordination and external representation on the basis of which the actor operates *and* the coordination and representation arrangements as negotiated internally in preparation of the proceedings in a specific multilateral body in practice as well as the conduct of these proceedings itself.

²⁹ This category has been adopted from Caporaso/Jupille 1998: 214 f.

³⁰ This category builds on and extends elements of the conceptual framework on EU capacity to act internationally developed by Caporaso/Jupille (1998).

- 4. Actor (EU) Objectives**, i.e. the treaty and policy objectives forming the framework of EU multilateral activity in a multilateral body *and* the specific strategic objectives the EU may have in pursuing multilateral activity in a given forum.

The objective is now to try out whether such a pre-theoretical conceptual framework is workable in practice and which insights its use may yield. This test-run will be carried out by applying the set of categories to three illustrative examples, chosen on the basis of the categorization of legal statuses. One example from each category (member, participant, observer) has been chosen with the intention of verifying whether the determination of a legal status, which plays such a prominent role in the legal literature, tells us much about the actual role performance of the EU in a given forum. The categories will be highlighted throughout to demonstrate their mutual reinforcing nature and the interplay between them. The examples studied will provide a number of essential empirical facts, but are mostly designed to help us identify the virtues and flaws of the proposed approach, thus uncovering further conceptual issues, and to highlight the most evident existing research gaps concerning the position of the EU in global multilateral governance fora.

3.2 Testing out the interdisciplinary framework of analysis: three illustrative examples

The EC as a member of the Food and Agriculture Organization

The Food and Agriculture Organization (FAO) of the United Nations was founded in 1945 to lead efforts to fight hunger in both developed and developing countries, albeit most of its efforts focus primarily on rural areas in developing nations. The FAO's governing body consists of a Conference, a Council and eight Committees: Finance, Commodity, Forestry, Constitutional and Legal, Programme, Fisheries, Agriculture and World Food Security. The body's aim of "helping to build a world without hunger" is materialised through four main areas: 1) Putting information with in reach- serving as a knowledge network; 2) Sharing Policy expertise; 3) Providing a meeting place for nations and 4) Bringing knowledge to the field.³¹ These activity areas are carried out by the organisation's 3600 staff members and are reviewed biennially by the Conference of the organisation which includes 190 member nations and one member organization, the European Community.

Between 1962 and 1991 the European Community enjoyed privileges of observer status in the FAO including the right to participate and speak in the FAO Conference on behalf of the Community and its Member States. The Community however could not table any proposals, participate in any policy making activities, participate in any technical bodies of the FAO³², and naturally had no voting rights. As the EC had both internal and external competences in the activity areas of the FAO, and exclusive competence in its commercial policy³³ and policies on fisheries conservation³⁴, it was ready to take the place of its Member States in the organization. However, in order for it to accede to the FAO three main rudiments were needed, 1) possession of

31 For more information on the FAO and its activities please see: http://www.fao.org/UNFAO/about/activities_en.html

32 See article XIV of the FAO Constitution

33 Article 133 TEC; see Opinion 1/75 E.C.R. 1355 pp 1363 – 1364; Opinion 1/94 World Trade Organization [1994] ECR I-5267 where the ECJ laid down that the EC pursuant to article 133 has exclusive competence to conclude WTO agreements in relation to commercial policies but shared competences in regards to GATS and TRIPS; Opinion 1/78 [1979] ECR 2871 International Agreement on Natural Rubber.

34 Title II TEC articles 32-37; also see Framework Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources (repealing Regulations (EEC) No 3760/92 and (EEC) No 101/76); Regulation (EC) No 2369/2002 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (amending Regulation (EC) No 2792/1999); Regulation (EC) No 2370/2002 establishing an emergency Community measure for scrapping fishing vessels.

international legal personality³⁵; 2) powers of the EC under Community Law³⁶; and 3) requirements of the FAO constitutive document (Frid 1993). The latter is seen as one of the most difficult obstacles as there was not only an admissions process for additional members³⁷, as opposed to original members, but membership was only open to 'nations'.

The EC (then EEC) began negotiations in 1990 when the Council sent a letter to the FAO requesting them to consider its accession.³⁸ In 1991 modifications were made to the FAO constitution enabling 'regional economic integration organizations' to become members to the organization.³⁹ Accordingly, the Community submitted a formal request to be admitted to the FAO as a member and on 26 November 1991, following a formal voting procedure⁴⁰ in the FAO Conference, the European Community was admitted as the first REIO in the UN system⁴¹ and was awarded **full membership status**. The 79 members who were in favour of the EC joining the FAO as a REIO were notably enthusiastic, as seen in Appendix G. Explanation of Votes on Resolution 7/91 where Brazil stated "let me stress once again that the Brazilian Government firmly supports the admission of the EEC in FAO, in the belief that its participation will surely contribute to strengthen FAO activities and initiatives".⁴²

The EC's awarded form of membership entitled them under the principle of "alternative exercise of membership rights"⁴³ to membership rights and obligations as defined in the FAO Constitution. This form of alternative member status enables both its Member States and the REIO, in this case the EC, to exercise their rights on an alternate basis which is contingent upon their competence areas with the issues at hand.

In practice the Community or the Member States are expected to inform the FAO Conference/meeting who has competence in the specific areas that are to be covered in the meeting in addition to who will exercise their voting rights, in respects to each agenda item.⁴⁴ In situations where the Community is competent to cast a vote "the sum of the rights and obligations of a REIO and its Member States should

35 ECT Article 281

36 See ERTA Case 22/70 [1971] ECR 263.

37 Article II.2 FAO Constitution where it reads: "Additional Members may be admitted to the Organization by a vote concurred in by a two-thirds majority of all the members of the Conference and upon acceptance of this Constitution as in force at the time of admission."

38 COM(91)387, 18 October 1991

39 Conference Resolution 7/91 of 18 November 1991; Article II(4)-(10) FAO Constitution

40 See supra note 41.

41 Resolution of 22 November 1991, OJ (16 December 1992) C-326.

42 Appendix G. Explanation of Votes on Resolution 7/91: <http://www.fao.org/docrep/x5587E/x5587e0p.htm>

43 Article II.8 FAO Constitution

44 See OJ 1991 C292/8, 10-12: Proposal for a Council Decision on the accession of the European Community to the FAO at the 26th session of the FAO Conference

never exceed the total rights or obligations of the Member States thereof" (Frid 1993: 239). Accordingly, when the Community exercises its right to vote, Member States may not, and vice-versa.⁴⁵ How the Community its Member States execute this in practice is absent in academic literature and therefore its de facto activity and mode of governance within the FAO conference and its related bodies cannot be further elaborated upon here.

Acquiescent to their awarded formal legal status, the European Community gains **de facto recognition** from other international actors by means of being able to partake in the procedures of the FAO Conference. This includes speaking as a unitary actor, tabling resolutions on behalf of the Community and its Member States and introducing resolutions. Furthering the Community's de facto recognition is their established partnership with the FAO. The EC is the largest single funding source of the FAO field programme contributing nearly \$40 million per year (10 percent of its total expenditures).⁴⁶ While cooperation between the European Commission and the FAO dates back to 1991, significant developments⁴⁷ this century have furthered their relationship into a partnership via creating synergies between both EC and FAO programmes. This may be seen in collaborative development efforts in Africa, falling under the auspices of the EC-FAO strategic partnership objective of alleviating rural poverty and hunger, as defined in the Millennium Development Goals (MDGs). In September 2004 a strategic partnership was signed between the EC⁴⁸ and FAO in efforts to meet the MDGs. The partnership between the EC and FAO has and continues to increase EU presence and recognition globally through their joint programme of work in the food security programme, in their restoration of livelihoods after the tsunami, their national forest programme facility, and their joint programme on pest management. The latter has even made the EU more visible in Asian rural areas (Pedersen 2006). Their visibility and recognition by the international community, notably in the FAO framework, only continues to increase as not only does the EC have the competence to participate in such programmes of work but also has the capacity to do so. This as a result maintains to strengthen their role in the organization. Detailed empirical research on how others see the EU and its activities within the FAO is, however, strikingly absent in the existing body of literature.

45 Article 9(2) FAO Constitution

46 Ibid.

47 For example the signing of the Financial and Administrative Agreement between the EC and UN in 2003 and the adoption of the Commission Communication on the EU in the UN: Making Multilateralism work, also in 2003.

48 On the basis of Article 302 TEC.

The European Community's internal and external **competence** in FAO activities, notably their exclusive competence in the commercial and fisheries sector, entitles the Community to represent its interests and objectives falling within its competence level. As such, when it comes time for the Community to be represented and speak in the Conference it is the European Commission who is to do so.⁴⁹ In matters where the Community does not hold exclusive competence the EU Presidency is to speak on behalf of all 27 Member States.⁵⁰ In line with the FAO's four main activity areas and mandate the EC's treaty objectives outlined in Article 33 TEC in addition to its policies in rural development⁵¹ and food safety⁵² come hand in hand. Moreover, the EU-FAO strategic partnership furthers the Community's **strategic objective** of meeting the MDGs, which ultimately helps it to sharpen its own profile as a foreign policy actor and gain credibility externally and vis-à-vis its own population.

Against this background, it is imperative for the EC and its Member States to transparently communicate with one another to ensure a *cohesive* front is maintained and so that its objectives and interests are promoted in an effective manner (**internal coordination** and **representation**). Political science literature does not explore the nature of the Community's activity in the FAO specifically in regards to how the EC coordinates its efforts with its Member States and the process taken to decide upon who will speak and what statement will be made. In contrast, legal scholars (Dahswood/Hillon 2000; Bello/Rudolf 1997; Frid 1993) have extensively explored the framework in which the EC and Member States are obliged to cooperate and communicate in preparation to their participation in FAO meetings.

On 19 December 1991 an "Arrangement"⁵³ was made between the Council of the European Union and the Commission regarding "preparation for FAO meetings, statements and voting".⁵⁴ Pursuant to this Agreement the Commission is required to inform all Member States of its proposals and statements prior to EC coordination meetings. The competent working group of the Council of the European Union holds coordination meetings in Brussels and/or Rome to discuss the agenda items of upcoming meetings in addition to who will vote and speak⁵⁵ on the given agenda items. The Arrangement also provides guidelines for voting and interventions

49 Article 300 TEC

50 http://www.europa-eu-un.org/articles/en/article_3754_en.htm#p2

51 http://ec.europa.eu/agriculture/publi/fact/rurdev2007/en_2007.pdf

52 http://eur-lex.europa.eu/pri/en/oj/dat/2002/l_031/l_03120020201en00010024.pdf

53 The arrangement is not officially published.

54 See Case C-25/94 Grounds 5 for reference.

55 In accordance with 2.4 of the Arrangement the non voting party may also participate in the discussion.

(Section 2.1-2.4). Section 2.1 explores Community competence and its right to vote; Section 2.2 deals with national competence and the voting and speaking rights of Member States; and Section 2.3 addresses matters dealing with areas of national and Community competence (mixed competence) and the aim to achieve a common position.⁵⁶ In cases where disagreements arise in FAO matters between the Commission and Member States, Section 1.1.2 of the Arrangement endows the Committee of Permanent Representatives in the European Union (COREPER)⁵⁷ to decide on questions regarding competences and speaking and voting rights. While the stipulations in the arrangement may appear to be clear-cut, various complexities arise in practice when trying to decide upon voting rights. This may be observed in the EC judgment Case C-25/94 Commission v. Council.⁵⁸ The division of powers consequently remains controversial endowing only theoretical value to XLI of the General Rules of the FAO.⁵⁹ The relevance of this, more specifically of whether the Community or Member States have competence, to third parties is arguably limited (Frid 1993: 251). It may be assumed that although most non-EC member nations⁶⁰ to the FAO may be unaware and/or oblivious of the architectural complexities regarding the nature of alternative membership rights, the main underlying concern is not who has the competence to speak/vote but which platform the EC is taking regarding specific issues on the agenda. This is primarily because external actors will want to liaise and cooperate, to serve their own interests, with both Commission representatives⁶¹, representing the Community and its individual Member States, representing themselves individually or by the EU Presidency.⁶² Naturally, the interchangeability of the EU Presidency versus its own membership rights as a member 'nation' to the FAO creates confusion to those unfamiliar with the EU legal and political framework. This consequently affects how the Community and its Member States are being recognized by the international community. To the authors'

56 See J. Hippler Bello and B. Rudolf, *Commission v Council* AJIL, vol.91, No.2 (April 1997), pp. 349-355 and see *Commission v Council* and *Judgement C25/94 Opinion of Advocate General Jacobs*, Oct. 26, 1995.

57 See Article 207 ECT for the legal basis of COREPER

58 Case C-25/94, *Commission v Council* (1996) ECR I-1469- The dispute was over who between the Community and Member States had the right to vote in the FAO conference pursuant to section 2.3 of the Arrangement. For case notes see: Bernaerts, Inge: *Nederlandse staatscourant* 1996 n° 93 p. 4 ; Simon, Denys: *Europe* 1996 Mai Comm. n° 177 pp.7-8 + n° 219 pp. 23-24; Hermle, Stefan: *European Food Law Review* 1996 pp.276-277; Burrows, Noreen: *European Law Review* 1997 pp. 64-67 ; Timmermans, C.W.A.: *S.E.W.; Sociaal-economische wetgeving* 1997 pp. 244-245; Gautier, Yves: *Journal du droit international* 1997 pp. 512-516; Adam, Roberto: *Il Diritto dell'Unione Europea* 1997 pp.165-182.

59 XLI of the General Rules of the FAO demand a clarification of division of powers relating to all subjects under discussion.

60 The term 'nations' is used instead of states as seen in the FAO Constitution.

61 See articles 300 and 302 of TEC.

62 See Division of Competence between the EC and Member States in FAO: http://www.europa-eu-un.org/articles/en/article_3754_en.htm#p2

best knowledge, no empirical studies on the issue of the EC's external representation and its interaction with other FAO members are currently available.

While the EC may enjoy full membership rights as a REIO in the FAO Conference, limitations do arise; as the European Community may not participate in the different FAO Conference Commissions, in any of its committees including the Programme, Finance and Constitutional and Legal committees (Pedersen 2006), nor can the EC apply their rights in matters of organizational questions or budgetary affairs. Additionally, they cannot vote on elective posts in the bodies just mentioned or fulfill any functions in any of the FAO organs.⁶³ It is important to note that the EC is not required to contribute to the FAO budget however does pay a lump sum to cover administrative costs arising from their participation (Pedersen 2006) and also, as seen above, significantly contributes to FAO field projects. Furthermore, the EC may not participate in the FAO Council (albeit in customary practice the EC is seen as having 'seat no. 50' as there are 49 elected members of the Council) (Frid 1993: 254). The Community's presence and acknowledgment as the 50th member in the FAO Council illustrates their *de facto* practice in restrictive bodies while not technically having the legal 'backing' to participate. As there is no literature surveying such activity, questions on how the EU actually fares in the various FAO bodies arise.

In sum, in examining the Community's capacity to act in the FAO⁶⁴, by virtue of the EC's formal legal status, it has become clear that their full membership status and legal personality provide also the *de facto recognition* needed to be a distinctive and independent actor in the FAO Conference. As such, the EC is *recognized* by other FAO members as a single entity through its interventions, partnership programmes and accessions to agreements in context. However, it is important to bear in mind that while the Community may be recognized as a single actor, it must share its membership rights with its Member States; this of course is dependent upon its competence areas, as seen in the *alternative exercise of membership rights*. The *competences* which the EC possesses to act externally in FAO matters are provided for at both the European and international level; at the European level activity is granted through its treaties, treaty objectives and case law; and at the international level participation is established through the FAO constitutional amendment admitting REIO's in the organization in addition to the formal voting procedure that took place in the Conference enabling the EC to become a full member.

63 See FAO General Rules of the Organization rules XLII - XLV

64 Using the criteria seen in section 4.1.

Furthermore, EU activity and their *role* in the FAO have received less attention in literature compared to that of legal foundations of EU membership to the organization. It can be deduced that this is primarily due to the FAO being a very unique case for legal scholars studying EU in multilateral governance arrangements as it gained full membership status via amendments to the founding Constitution. With limited research conducted in the empirical social sciences elements such as EU internal and external coordination, in practice, were not explored to its full extent. As such, legal and political parallels, in the context of elements needed to participate in the FAO, were presented to illustrate the connectivity between the concepts used in political science literature to explain what otherwise would be observed in pure legal sciences through an explanation of legal clauses and case law. The EU being granted full membership status would lead to the assumption that the EU not only has the capability but the means to play a prominent role. This assumption has, however, not been substantiated, and more empirical research is required to make any far-reaching claims on the EU's role and position in the FAO.

The EC as a full participant in the World Summit on Sustainable Development

The World Summit on Sustainable Development (WSSD, Rio+10) in Johannesburg from 26 August to 6 September 2002 aimed to review the progress of the implementation of Agenda 21⁶⁵, and the Commission on Sustainable Development was to serve as the organizing and coordinating body of the Summit.⁶⁶ The Summit brought together over 21,000 participants including NGOs, civil society, academia, scientists, the private sector and 191 national governments. There were two main outcome documents: The Plan of Implementation⁶⁷ and the Johannesburg Declaration on Sustainable Development⁶⁸ in addition to a few hundred non-negotiated partnership initiatives, all aiming to further implement Agenda 21.⁶⁹ Contrary to the President of the United States, all EU heads of state were present as well as representatives of the European Commission.

65 "Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations System, Governments, and Major Groups in every area in which human impacts on the environment. It was adopted by more than 178 Governments at the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil, 3 to 14 June 1992."

See: <http://www.un.org/esa/sustdev/documents/agenda21/index.htm>

66 Agreed upon by UNGA Resolution 55/199 adopted on 20 December 2000.

67 http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf

68 http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POI_PD.htm

69 For more information on the summit see www.iisd.ca

The EU's commitment to sustainable development⁷⁰ may be seen through its Sustainable Development Strategy⁷¹ built upon the 2001 Gothenburg Strategy⁷², making sustainable development at the core of EU policy.⁷³ The two strategies individually represent the internal and external dimension of sustainable development and as such the EU reaffirms its need to fully implement its internal dimension in order to tackle environmental issues at the global level.

Against this background the EU was dedicated to be a salient actor while making the World Summit on Sustainable Development a success.⁷⁴ Its **strategic objectives** for the Summit were two-fold: strengthening the Union's international identity (Manners 2002) but also ensuring that its economic competitiveness was to stay intact. The WSSD was therefore of great importance in a variety of ways.

The European Community was awarded **full participant status** in the WSSD.⁷⁵ The modalities and formulations of the extent to which the Community could enjoy their status was elucidated in the conference's rules of **procedure**.⁷⁶ At the general level, the delegation of the Community was to be composed of a head of delegation and other representatives including alternative representatives and advisers as required, whereby the credentials were to be issued by the President of the European Commission.⁷⁷ Regarding speaking rights in the Summit, the President of the WSSD, Thabo Mbeki, held the power to accord a right of reply to a representative of the EC following its request.⁷⁸ There are however precincts to when the Community could make an intervention, the number of times they could intervene and for how long. Like other full participants the Community was formally allowed to make two statements at a given meeting. In the Main Committee of the Summit the European Community was entitled to be represented by one representative.⁷⁹ The main drawback of course was that the Community did not have the right to vote.⁸⁰

70 <http://ec.europa.eu/environment/eussd/>; For the purpose of this section the term sustainable development, which remains contested in the political science literature (See Carter 2001) holds the following definition: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." (World Commission on Environment and Development (the 'Brundtland Commission', p. 43, 1987)

71 European Council 10117/06: Review of EU SDS:

<http://register.consilium.europa.eu/pdf/en/06/st10/st10117.en06.pdf>

72 http://europa.eu/eur-lex/en/com/cnc/2001/com2001_0264en01.pdf

73 http://ec.europa.eu/research/environment/policy/article_1434_en.htm

74 European Council Conclusions 17.06.02.

75 See A/CONF.199/INF/2 and E/CN.17/2001/PC/24 Corr.1.

76

A/CONF.199/2/Corr.1:

<http://daccessods.un.org/access.nsf/Get?OpenAgent&DS=A/CONF.199/2/CORR.1&Lang=E>

77 Ibid., rules 1 and 3.

78 Ibid., rule 24.

79 Ibid., rule 47.

80 Ibid., rule 62.

'Sustainable Development' is very much embedded into the European Union's **objectives** both within its **treaty objectives** and within its **policy objectives**. It is also reflected in the 'Cardiff Process'⁸¹ which is designed to integrate environmental policy by incorporating it into all Community policies. In its treaty objectives this may be observed in Preamble Recital, no.8 and Article 2 of the Treaty of the European Union where it stipulates "The Union shall set itself the following objectives: to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers [...]."

The Treaty on the European Community also makes reference to the term sustainable development in Article 6: "Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development."

In compliance with international legal principles on sustainable development⁸² the European Union adopted the 'precautionary principle'⁸³ through its founding treaties. This has been confirmed via its application in the European Court of Justice (ECJ)⁸⁴. The EU Strategic Environmental Assessment Directive⁸⁵ adopted in 2001 is also based upon this principle and as such places a legal precedence on sustainable development as a whole.

As early as February 2001 the EU outlined their WSSD **policy objectives** in a Communication entitled "10 Years after Rio: Preparation for the World Summit for Sustainable Development"⁸⁶ which contained four main objectives: "1. Greater global equity and an effective partnership for sustainable development; 2. Stronger integration and coherence of environment and development on an international level; 3. A clear agreement on environment and development goals to revive and enhance

81 See: Cardiff (June 1998) [[COM\(1998\) 333](#) - Not published in the Official Journal] and "Integrating environmental considerations into other policy areas - a stocktaking of the Cardiff process" [[COM\(2004\) 394](#) - OJ C 49 of 28 February 2006]

82 'Precautionary Approach' can be found and seen in Principle 15 of the 1992 Rio Declaration on Environment and Development.

83 See: Communication from the Commission of 2 February 2000 on the precautionary principle [[COM\(2000\) 1](#) final - Not published in the Official Journal]

84 See ECJ 2004. Judgment of the Court (Grand Chamber) of 7 September 2004, Case C-127/02 para 44, Judgment of the Court of 21 March 2000, Case C-6/99 21.3.2000, ECJ reports 2000 Page I-01651, ECJ Judgment of the Court (Fifth Chamber) of 15 June 2000. Joined Cases C-418/97 and 419/97

85 See OJ L197 of 21 July 2001, page 30 and for further information at the UN level see: http://www.unece.org/env/eia/sea_protocol.htm

86 COM(2001)53 final- 06.2.2001: http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0053en01.pdf

the Rio 1992 process; 4. Effective measures on a national level with strict international supervision.”

Also at the policy level, the EU’s Sustainable Development Strategy entitled “A sustainable Europe for a better world: A European Union strategy for sustainable development”⁸⁷ outlined its commitment to the cause. Notably, the EU recognized that “Sustainable development requires global solutions. The Union will seek to make sustainable development an objective in bilateral development cooperation and in all international organisations and specialised agencies.”⁸⁸ In view of that, the WSSD was the perfect occasion where the EU could forward their objectives and commitments internationally. The European Union participated in all of the Summit’s Preparatory Committee meetings and would at each session reinstate their willingness to take a leadership role.⁸⁹ The international community **recognized** their strengths and potential even prior to the Summit where, to cite only one example from civil society, Daniel Mittler, Earth Summit Coordinator for Friends of the Earth stated: “This summit can only deliver meaningful results if the European Union shows true leadership”.⁹⁰

In order for the EU to present itself as their desired role of being a leader, a lot of **internal coordination** was required. This however was seemingly not an easy task given that sustainable development covers three main pillars: ‘economic, social and environment’.⁹¹ While the European Community may have exclusive **competences** in trade areas, which would fall under the economic pillar of the conference, it has shared competences with its 27 Member States in the environment pillar which naturally was a fundamental pillar of the conference. As such, the WSSD outcome document would be categorized as a “mixed agreement” and accordingly, like many other international environment agreements, would have to be signed by both the European Union and its Member States.⁹²

Furthermore, because sustainable development covers such a broad range of subject areas, many DGs would have to be involved such as DG Trade, DG AGRI, DG DEV and DG ENV, in addition to the necessary Council Working Groups and all EU Member States, in each step of the coordination processes, which naturally

87 Communication from the Commission (COM(2001) 264 final).

88 See Presidency Conclusions Gothenburg European Council 15 and 16 June 2001 paragraph 26.

89 See COM(2001)53 final- 06.2.2001:

http://eurlex.europa.eu/LexUriServ/site/en/com/2001/com2001_0053en01.pdf

90 Similar sentiments were also expressed by the World Development Movement (2002).

91 See The Johannesburg Declaration on Sustainable Development, 4 September 2002.

92 See 1979 Berne Convention on the Conservation of European Wildlife and Natural Habitats (OJ 1982 L 38), the 1979 Bonn Convention on the Conservation of Migratory Species of Wild Animals (OJ 1982 L 210), the 1992 Rio de Janeiro Convention on Biological Diversity (OJ 1993 L 309) and the 1994 Paris Convention on Combating Desertification (OJ 1998 L 83, p. 1).

merely added to the intricacies involved in achieving a strong united front. Preparation meetings for the Summit did take place⁹³ where even the European Parliament was involved throughout the process prior, during and after the WSSD. The MEPs that composed part of the delegation were kept regularly informed of negotiations, and debriefing meetings were held on a daily basis by senior Commission officials.⁹⁴

In its **representation** procedures in the Summit, the Community was to be represented by the Commission (Article 302 TEC) in trade (Article 133 TEC) and agriculture (Title II EC Treaty) related matters, and for all other matters, the Member States in tandem with the Commission would represent themselves individually⁹⁵ or by the Council Presidency.⁹⁶ The diversity of subject areas addressed at the Summit in addition to the complexities involved regarding competences, coherence and representation, would assumingly not generate a setting where the Community could easily be **recognized** as a unitary actor. Commissioner Wallström on the other hand stated in her conclusions of the WSSD: "The European Commission spoke with one strong voice in Johannesburg. As the Commissioner for environment, I shared with Poul Nielson (Commissioner for Development) the responsibility as chef de file in the preparations for Johannesburg. Depending on availability and schedules we participated ourselves in the high-level negotiation sessions at ministerial level at the WSSD Summit. Co-ordination was further enhanced by the presence in Johannesburg of the President of the Commission."⁹⁷ This was naturally contested.⁹⁸

In conclusion, the EU's leadership role - and/or lack thereof - in the international environment fora has been explored by various political scientists such as Vogler and Bretherton (1999), and more specifically in the WSSD by Lightfoot and Burchell (2005) who argue that the EU's role in the Summit "should be viewed as more of a shaping process for the EU as a sustainability leader, rather than a fully developed normative power" (Lightfoot/Burchell 2005: 92). There however has been very limited research, if any, conducted by legal scholars examining the EU and the Summit⁹⁹ in contrast to existing literature on the legal aspects of sustainable development and the EU (Unnerstall 2005, Dhondt 2003) and the EU and environmental law

93 See: <http://ec.europa.eu/environment/wssd/documents/gac.pdf>

94 See: http://europa-eu-un.org/articles/en/article_1630_en.htm

95 Bearing in mind Article 10 TEC.

96 More specifically, in cases where common positions were presented.

97 See Wallström, Speech on WSSD Outcome: http://www.europa-eu-un.org/articles/en/article_1631_en.htm

98 See Monica Frassoni MEP's statement in Lightfoot and Burchell (2005: 83).

99 Morgera and Marin Duran (2006) make references to the EU in WSSD however primarily focuses on the 2005 UN Summit.

(Hedemann-Robinson 2006) in general. The literature in legal studies predominantly focuses on the complexities of mixed agreements and shared competences in the environmental sphere, while political scientists place an emphasis on the role of the EU and their “mixed achievements” (Vogler 2005: 845).

Through looking at the EU’s formal legal status of full participant in the WSSD and its treaty objectives and case law - in relation to sustainable development - we were able to discern the formal guidelines versus -and/or- how it complemented their *de facto* activity. The EU, despite its limitations under its status, managed to play an active role in the Summit providing it with significant international recognition, notably by civil society.

The EC as an observer in the United Nations Environment Programme

The United Nations Environment Programme (UNEP) was established in 1972 to serve as the “voice” for the environment within the UN system. The organization aims to facilitate and promote good environmental governance worldwide. UNEP focuses on five main areas: 1) Assessing global, regional and national environmental conditions and trends; 2) Developing international and national environmental instruments; 3) Strengthening institutions for the wise management of the environment; 4) Facilitating the transfer of knowledge and technology for sustainable development; and 5) Encouraging new partnerships and mind-sets within civil society and the private sector. To achieve their goals in these areas UNEP works with various other organizations within and outside the UN system in addition to NGOs, the private sector, national governments and civil society. The organization fittingly functions using a cross-sector approach. UNEP’s main body is the Governing Council¹⁰⁰, which consists of 58 members¹⁰¹ that are elected by the UNGA for a term of four years. Currently there are twelve EU Member States composing the Council. Annually a Global Ministerial Environment Forum¹⁰² takes place in order to review the issues at hand in global environmental affairs. As the Council has limited membership, debates have been ongoing regarding establishing

100 Established in accordance with UNGA resolution 2997 (XXVII) Institutional and financial arrangements for international environmental co-operation of 15 December 1972.

101 Equitable regional representation is taken into account.

102 Pursuant to General Assembly resolution 53/242 (Report of the Secretary-General on environment and human settlements) of 28 July 1999.

universal membership in UNEP. The EU has been actively engaged in such debates both internally and externally.¹⁰³

Currently, the EU holds **observer status** in UNEP albeit its strong physical and financial presence in the organization.¹⁰⁴ Its activities and participation are guided by UNEP's founding resolution 2997 Section IV, Para 5 where it invites intergovernmental organizations having an interest in the field of environment to lend their full support and collaboration. The EC delegation in Nairobi (UNEP's headquarters) is responsible for maintaining its relations with UNEP where the head of delegation is accredited to the organization as the EC permanent representative.¹⁰⁵ Efforts in maintaining a relationship with UNEP are not only one-sided, in reverse, UNEP also wishes to maintain a strong link with the EU and accordingly set up a liaison office in Brussels aiming to promote and facilitate the development of joint EU-UNEP collaboration, programmes and projects.¹⁰⁶ UNEP also appointed an official representative to serve as a focal point between the two institutions.¹⁰⁷ Further, in September 2004 EU Environment Commissioner Margot Wallström and the Executive Director of UNEP, Klaus Töpfer, signed a Memorandum of Understanding¹⁰⁸ (MOU) reinforcing policy dialogue and collaboration at all levels between UNEP and the EU. At the signing of the MOU the Commission and UNEP publicly stated and reinforced how both institutions share common objectives, mandates, goals and environmental policy priorities.¹⁰⁹

The EU's **treaty objectives** specifically in relation to its policies on the environment are outlined *inter alia* in Article 2 TEU, and referenced in Articles 6 TEC, 95 para 3 TEC and 174 TEC which stipulates: "Community policy on the environment shall contribute to the pursuit of the following objectives: preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resources, promoting measures at international level to deal with regional or worldwide environmental problems."

103 See Irish Presidency Speaking Points on International Environmental Governance, 8th Special Session of the Governing Council of UNEP, 29 – 31 March, 2004 and Chairman's Summary: Round Table UNEP- Establishing Universal Membership 2-3 February 2004 Potsdam.

104 Collectively EU member states are the largest donor to UNEP's Environmental Fund (Maillet 2006).

105 http://www.europa-eu-un.org/articles/en/article_456_en.htm

106 For further aims and objectives see:

<http://www.unep.org/Documents/Multilingual/Default.asp?DocumentID=43&ArticleID=3438>

107 See OJ C 248, 16.9.1983, pp.2-4.

108 See: http://ec.europa.eu/environment/international_issues/pdf/com_unep_mou_final.pdf

109 See IP/04/1115: Global efforts for the environment: Commission and UNEP to reinforce cooperation, Brussels, 20 September 2004.

At the policy level the European Union also has strong **environmental objectives**, notably in sustainable development as seen in the last section, but also in a wide range of policy areas covering fields from biotechnology to climate change. In its 6th Environment Action Programme¹¹⁰ (EAP) (2002-2012) four priority areas for action were identified: 1) Climate Change; 2) Nature and biodiversity; 3) Environment and Health and Quality of Life; and 4) Natural Resources and Waste.

The EU's underlying **strategic objectives** for cooperation with UNEP are to further EU credibility in its implementation of the commitments made at the 2002 WSSD in addition to achieving all environment-related UN Millennium development goals, which as a result would contribute to the EU's 'front-runner' approach and exportation of EU 'greening' initiatives in the international environmental fora. As such, the EU has been known to go "forum shopping" (Kellow/Zito 2002), i.e. - given the regulatory linkage between the environmental policies of both international organizations and the EU - exploring and participating in the arena which most favours their specific policy position. Thus, within such arenas, the EU may receive the opportunity to shape the agenda to further their objectives.

The European Union's **legal competence** in international environmental affairs has undoubtedly generated confusion to non-EU states regarding who the primary actor is. As the EU shares its competence with its Member States in areas addressing the environmental sector, issues surrounding signing, negotiating, ratifying and implementation procedures of international environmental agreements arise as non-EU members do not always know who to approach and/or cooperate within the international fora. Nonetheless, under Title XIX of the EC Treaty and its acquired legal competence to act externally in matters that may affect internal legislation¹¹¹ - such as the environment - the EU alongside its Member States can and has become a party to a variety of international environmental agreements (mixed agreements).¹¹² It should however be highlighted that the EU in accordance with the principle of subsidiarity (Article 5 TEC) can only tackle environmental issues when it can deal with them more 'efficiently' than national governments.

Internal coordination on environmental affairs has seemingly not been an easy task as many difficulties seem to arise: at times individual Member States prefer to

110 See Decision No 1600/2002/EC, OJ L 242 of 10/9/2002.

111 See ECJ Case 22/70 ERTA [1971] and Opinion 1/76 Agreement on a European fund for decommissioning inland waterway vessels.

112 See 1992 Rio de Janeiro Convention on Biological Diversity (OJ 1993 L 309, p. 1) and the 1994 Paris Convention on Combating Desertification (OJ 1998 L 83, p. 1).

act unilaterally in UNEP initiated environmental negotiations, such as the strengthening of the Basel Convention, where Denmark chose not to negotiate through the Greek Presidency and as a result undermined the EU's position (Kellow/Zito 2002). The various levels and structures of internal coordination in preparation for UNEP meetings is not explored in legal or political science literature and therefore remains a research gap in analysis.

At the external level, coalition building may be observed where 'like-minded' actors tend to make an alliance to further promote and achieve common environmental aims. This may be seen in existing coalitions such as the EU-Nordic Council coalition and the EU-JUSCANZ coalition (Jahnke 1999).¹¹³ The extent to which these coalitions are played out in practice in UNEP however are not known as empirical research also lacks in this aspect. Further at the external level, the EU and its Member States have developed a *de facto* system of dual **representation** where both the Commission and the Presidency (on behalf of all 27 Member States) represent their interests as a whole in UN environmental negotiations including those under the auspices of UNEP. There is an implicit alternating procedure where in matters of exclusive competence the Commission will speak, and on matters of shared competence the Presidency will take the floor (Damro 2006). "The practical results of this can be interesting. For the interlocutors of the EU at international meetings it can sometimes lead to a bewildering state of affairs where representation of the Union can pass backwards and forwards between the Presidency and the Commission [...]" (Vogler 2005: 839). The acceptance and understanding of non-EU member states regarding the Community's "alongside or instead of Member States" (Vogler 2005; Stokke/Thommessen 2003) participation in UNEP remains under-researched.

To sum up, EU activity in UNEP has not been explored to the degree that EU and environmental governance has, independently, by legal (Bodansky 1999) and social scientists (Jupille/Caporaso 1998). The EU's legal **status** being limited to an "observer" has not posed as many impediments as one would expect. The EU, as seen above, has been a signatory alongside its Member States on various environmental conventions (mixed agreements) and has also had the opportunity to be represented in the fora, albeit with no voting power. The mixed legal **competences** in conjunction with EU and national environmental **objectives** of its Member States on many occasions however has yielded obstacles for the EU at the

113 See E/CN.6/2000/PC/L.1/Rev.2 Streamline outcome document pp.16-17.

internal level in its **coordination** efforts and at the external level in its **recognition** by 'outsiders'. "In international environmental diplomacy it exhibits a number of peculiar and chameleon-like traits that distinguish the way that the Union appears to the outside world" (Vogler 2005: 849). The established bilateral relationship between UNEP and the EU through its lens of opportunities for "synergy and cooperation"¹¹⁴ has created a stepping stone for the EU to further its **treaty objectives** while achieving its **strategic objectives** in the international environmental fora. Further studies focusing specifically on EU and UNEP however are still required for a more comprehensive understanding of its actual **role and, ultimately, position**.

3.3 Summarizing the findings: the practical virtues of the interdisciplinary framework of analysis

The three illustrative cases exemplify EU activity via its three awarded legal statuses in the UN system to demonstrate the linkages between the formal guidelines of the given UN body to that of how the EU is actually participating in practice.

The application of the proposed interdisciplinary approach of EU activity in UN bodies less frequently covered in literature has yielded some useful insights both on the utility of the chosen approach and in terms of substance. While content was not our main concern here - and as no substantial empirical research was carried out by ourselves - the core finding that can be retrieved from the cursory overviews of the three examples is that the legal status granted to the EU in these multilateral bodies is in itself not a very good indicator of its real degree of activity, influence, position, or, in other terms, of its 'role', even though the term itself remains underspecified. In the FAO, it seems that the EU plays a less prominent part despite a legal status that puts it on equal footing with other members, i.e. states. On the contrary, in the WSSD, the enhanced legal status has seemingly helped the EU make important contributions and play an active role. Finally, in UNEP, where the EU has the least amount of formal rights, it is one of the core financial contributors. This has, however, not yet translated into a considerable degree of influence.

Concerning the approach itself, it could be discerned that interdisciplinary research on the topic of EU participation in multilateral fora is workable in practice and, moreover, leads to observations that would probably go unnoticed when working with mono-disciplinary approaches. To highlight just a few examples from the discussed cases, while the assumption in political science that full membership rights

¹¹⁴ See June 2005 European Council Conclusions.

help the EU to play an important part in the FAO suggests itself, a thorough analysis of the legal status of the EU in this body reveals rights but also limitations which may help understand why actual EU activity falls short of these expectations. On the other hand, a purely mono-disciplinary legal approach would overlook the nature of EU activity and influences on international structures, for example in the WSSD. Purely looking at EU competence in sustainable development and the rules of procedure of the Summit, more specifically regulations of interventions, would only cede to demonstrating formal capabilities and not the means of how the EU is addressing the issues at hand nor how their interventions are being perceived by the international community.

As it may be observed in the discussed examples, there is a significant lack of empirical research on some of the categories and bodies, which as a result has hampered a complete understanding of these instances of EU participation in the UN system. While this observation only confirms previous findings identifying significant research gaps, it adds some more shortcomings to the list: for the FAO, while a lot has been written by legal scholars, mostly due to the exceptional full membership status, less can be found on this institution in political science. For issues concerning sustainable development, a greater number of empirical studies exist, but a lot less academic literature specifically on the Summit can be found in legal science. Moreover, once again it seems that certain categories of EU activity such as internal coordination or recognition by others remain generally under-researched. Hence, the proposed approach also has the advantage of attracting attention to areas that require more research.

As a result, the essential virtue of the interdisciplinary approach can be seen in the fact that it helps to get to a 'completer' picture by means of 'thick description' and thus to advance our understanding of EU activity in a specific body. The four categories *recognition*, *governance processes*, *capacity* and *objectives*, and their respective sub-categories provide for a comprehensive analytical framework integrating legal and political science concepts while taking both the EU and the international level into account. Employing this set of categories to various instances of EU participation in the UN and other multilateral fora furthermore allows for consistent cross-case comparisons. For these reasons, the proposed analytical framework - as it stands - may be regarded as a valuable descriptive tool.

Turning to the shortcomings of the proposed approach, it could be seen that some of the (sub-) categories, such as 'strategic objectives' remain underspecified. This is also true for the 'role' concept, which currently only allows for an approximative assessment of empirical realities. If the proposed approach is to be used as not only an analytical framework for descriptive purposes, i.e. to map the EU's activity in a specific multilateral body, but as a foundation for more explanatory accounts, these deficits would have to be tackled by further developing some of the categories either conceptually or theoretically. This can be done in a variety of ways. A few proposals for this will be presented in the following section.

In sum, if these flaws are adequately dealt with, the proposed framework of analysis can serve as a useful tool for understanding and evaluating the EU's substantial contributions to multilateral governance. In contrast to the exploratory work presented in this section, parting from desk research and, thus, existing literature from different fields, truly interdisciplinary studies making use of the (entire or elements of the) proposed analytical framework would have to be planned as interdisciplinary research from the start. This means that they would ideally part from a shared cognitive interest by asking research questions that are meaningful to both legal scholars and political scientists and to subsequently design and carry out research by following a joint research trajectory. A range of proposals of how legal and political science scholars can carry out interdisciplinary research of this type on the EU and multilateral governance will be made in the next section.

4. TOWARDS AN INTERDISCIPLINARY RESEARCH AGENDA ON THE EU AND MULTILATERAL GOVERNANCE

The exercise of contrasting the three different perspectives (legal, political science and interdisciplinary) on the EU's role in multilateral governance has yielded a great number of insights about what is already known about the subject, but also about 'research gaps' and the deficits of current research practice. Above all, it has demonstrated that there is ample space for fresh approaches towards the study of this subject. The following section is meant to take up this challenge by mapping out elements of an interdisciplinary research agenda on a topic that can be expected to further gain in practical relevance over the coming years.

From the review of the relevant literature, but also from simply employing the archetypical approaches each discipline uses to analyse the EU's role in multilateral fora, two things have become apparent, which may not be so evident at first sight: substantially, legal scholars and political scientists often care about similar, sometimes even identical sub-topics within the broader subject of EU multilateral activity - but, secondly, they employ different terminologies, work with diverging foci of attention and make use of different analytical tools.

In this section, the intention is thus to, firstly, specify some of the most significant shared concerns, as they constitute the foundations for joint research of the two disciplines. Building on these, a number of tentative research questions about the EU's role - via its legal foundation - in multilateral governance, meant to be tackled by both disciplines, will be formulated. Finally, some possible ways of researching these questions, building on the outlined interdisciplinary framework of analysis, will be presented. This will be supplemented by references to some of the underresearched issues regarding EU activity in multilateral governance.

The works of legal scholars and political scientists concerning the EU's role in multilateral governance can broadly be distinguished according to their purposes. They fall into three categories: ***understanding***, ***explaining*** and ***improving***. Three broad fields of shared research interests can be singled out for each of these categories.

Both legal scholars and political scientists have extensively worked descriptively, focusing on monitoring and mapping, and thus on attempts at ***understanding*** how multilateral fora function in the presence of the EU. Within the corpus of these descriptive accounts comparable research interests have emerged despite the use

of different terminology. From what has been discussed so far, three core interests stand out, which translate into a number of questions:

1. An interest in understanding **institutional frameworks**, i.e. the formal legal foundations and the informal arrangements that exist at the international and the European level. Common research questions within this category can be formulated: *How can the EU participate in bodies with restricted membership? What are the legal and institutional frameworks of the multilateral body x? What are the relevant institutional configurations within the EU for its participation in body y, on issue z (internal coordination)?*
2. A common attraction to the study of **processes** on both levels and to the type of dynamics at work at the interplay between the two. This interest is centred on the investigation into formal and informal negotiation or decision-making processes within the international body or within the EU. Interesting research questions are thus: *How do multilateral negotiations function in UN body x? How does the EU take decisions in preparation for its participation in multilateral negotiations in forum y (internal coordination)? Which negotiation styles (arguing, bargaining, deliberating) dominate, which instruments are used in each of these arenas? How does the negotiation style affect outcomes of the negotiation process (hard law, soft law) and, vice-versa, how does the proposed outcome affect negotiation position and styles? How do the two negotiation arenas (EU internal and international level) link up?*
3. A concern with **agency** that is reflected in concepts such as 'recognition'. The prime agent under examination is obviously the EU and its sub-structures. Third countries, the multilateral body itself or non-state entities and their behaviour vis-à-vis the EU may be other relevant agents to analyse. Questions to be asked are, e.g.: *How does EU commitment to multilateralism show - legally and politically - in forum f, on topic t? How does EU representation in body b on issue a function? Who, on the EU side, is the point of contact when 'mixed' agreements are tabled for discussion? How does country y perceive the EU's participation in body z? (external recognition) What are the capacities and margins of manoeuvre of the EU, of EU Member States, of third country c,d,e in a given multilateral forum? How do EU negotiators and EU Member States coordinate under varying degrees of legal obligation to do so?*

Many questions formulated for descriptive purposes will be cutting across the three fields of shared interest.

Secondly, and building largely on this exercise of understanding, both legal scholars and political scientists have tried to unveil the logics of the EU's system-wide activities, by, e.g., identifying trends or extracting patterns of EU activities across multilateral fora. In the face of the illustrated diversity of the EU's activities in various arenas, this has, so far, not led to many results. The shared interest in generalizing, and, hence, **explaining** the EU's role in multilateral fora has translated into some concrete common research concerns that can be subsumed under the same three headings. Some exemplary research questions are stated under each:

1. A shared interest in explaining the **institutional frameworks** that can be observed at the international and the EU level: *Why has a specific set of institutions emerged to deal with issue x? How and why has the EU been granted a specific legal status in forum y? What are the consequences of EU multilateral activity at the national, regional and international level?*
2. A common concern with the **processes** of multilateral governance itself and of the organisation of preparatory work for this inside the EU: *Why has a certain negotiation style emerged in forum x and what is the contribution of the EU to this? Why are certain instruments preferred over others in the decision-making process in multilateral body y?*
3. **Agency**: An interest in accounting - inter alia - for the evolving legal statuses and roles of the actor EU and its performance in multilateral governance: *Why has the EU committed itself strongly to multilateralism? Why has the EU in some cases been recognized as a unitary/powerful actor and not in others? (external recognition) Why has the EU in some cases been successful in pushing its policy objectives through and not in others? Why does EU coordination/representation/participation in multilateral governance take so many different forms in different fora and why does it take these exact forms?*

Thirdly, a research trajectory which has received less consideration in this article but has attracted both legal scholars' and political scientists' attention is **normative thinking** on the question of the democratic legitimacy of multilateral governance, i.e. on how to improve the **effectiveness** of governance and enhance the **participation** of all kinds of actors in multilateral fora (Scharpf 1999). Once again, three categories of shared interests may be distinguished, each of which comes with some important normative questions:

1. A shared interest in improving the **institutional frameworks** that have emerged at the international and the EU level: *How can and should the legitimacy (effectiveness/participation) of multilateral governance be enhanced? How*

should future multilateral arrangements be framed to better accommodate regional organisations? Which existing multilateral bodies should amend their founding constitutions to ensure full participation and rights of regional integration organizations?

2. A shared concern of ameliorating the **processes** of negotiations, decision-making and implementation in multilateral governance: *How should procedures be improved to enable broader participation of various (non-state) actors at various stages of the negotiation processes? Should mechanisms be created to enable better parliamentary control of decision of multilateral fora? Should procedures within the EU be made more transparent to enable better control of EU multilateral activity via national and/or the European parliament(s)? How should the clarification of division of powers between the Union and its Member States take form and could that be made a precondition to joining an international organisation?*
3. **Agency**: An interest in making the EU become a ‘better’ player in multilateral fora, i.e. changing the actor to enhance the efficiency of multilateral governance: *How should the EU act in multilateral fora to enhance the legitimacy of multilateral governance and its own legitimacy as a foreign policy actor? How could and should the EU assume more international responsibility?*

In sum, a range of topics of shared interest exist, which can be translated into an even greater number of related research questions that engage both legal and political science, only some of which have been emphasised here. The outlined agenda can be flexibly applied, adapted and combined with the framework of analysis presented in the previous section to come to related research questions on diverse topics and bodies: How does the EU coordinate for the discussions on food safety in the FAO? Is there a pattern? Why has this particular way of doing it emerged? What is the role of legal and political factors in this development? How can and should this be improved?

If interdisciplinarity is taken as a condition sine qua non for research on this topic, the remaining task is now to conceive research designs that can provide answers to such research questions while serving as practical guidelines capable of integrating both legal and political science methodology. This does not imply developing a “joint discipline” (Slaughter Burley 1993) but rather using the strengths of each of the disciplines and their respective tool-kits to construct integrated research itineraries. While the development of the analytical framework presented in the previous section

has largely been inspired by concepts employed in legal science, empirical social sciences and their tried and tested set of research methods constitute the prime source of inspiration when it comes to building research designs.

In general terms, in any type of research on this topic, it would first and foremost be desirable to achieve a greater degree of cohesion, which implies employing a coherent terminology and making use of established concepts either by directly replicating them or by systematically making reference to them. While acknowledging that this degree of coherence has not even been achieved within the disciplines - and while promoting a pragmatic approach such as the one presented here as a first step -, we do think that it would be largely beneficial to strive for a minimum of consistent cross-referencing when pushing the frontier in a fairly new field of study.¹¹⁵

More concretely, a first distinction needs to be made between descriptive and explanatory research, typically working with empirical methods, on the one, and normative research on the other hand. As for the former two, three promising research trajectories can be identified. A tentative research conception that can be utilised is the **single case study design** (Yin 2003): The broad range of diversity that has been observed concerning the EU's participation in multilateral governance represents a strong case for comprehensive and detailed analyses of single issues or 'cases'. This research strategy is above all targeted at advancing the understanding of the subject, but can also be explanatory in nature. It could be used to answer questions on the EU's internal coordination for its work in a UN body, for instance, or for the explication of the conditions for success of the EU's activities in a specific multilateral forum. Legal and political science elements of analysis can easily be integrated into a case study design, e.g., by using a conceptual framework such as the one presented in the previous section. In practical terms, when conducting this research, legal analysis would be combined with the use of empirical methods such as qualitative interviewing (Kvale 1996).

Secondly, a **comparative research strategy** may be chosen. On the one hand, this can take the form of multiple, issue-based case studies examining the EU's performance in various fora, whose results would then be cross-checked against each other (Yin 2003). Such research can certainly advance the understanding of EU multilateral activity. It may also contribute towards building explanatory statements. For this type of research, it would be interesting to make use of a single

¹¹⁵ As noted in the introduction, a first task would probably be to further specify the term 'multilateral governance' itself by making it more operational so that legal scholars will feel more inclined to employ it.

analytical framework - such as the one presented earlier, or some specific elements of it - and examine, for example, very similar or very different cases (Lijphart 1971). On the other hand, comparative studies can take the form of regional comparison, i.e. contrasting the actor EU to other actors such as the United States (Jørgensen 2006: 196) - by building, for instance, on the range of studies that exists on the US and multilateralism (Patrick/Forman 2002) - or to other regional integration projects such as Mercosur. Here, one should however beware of getting caught in the 'analogy trap' (Messner 2003). Comparative research strategies could be used to examine all types of 'how' and 'why' questions outlined above. Legal and empirical analyses could once again be serviceably combined.

A third type of research design that promises manifold insights for both descriptive and explanatory research are **longitudinal studies**, which are typically employed to analyse trends or patterns unfolding over time. Such designs could be chosen, for instance, to explore the evolution of legal statuses the EU may have held in a specific forum and how these translate(d) into different forms of actual activity or degrees of influence at various points in time. Depending on the purpose of the research, longitudinal studies can take the form of descriptive chronologies or can be designed as 'process-tracing' exercises (Bennett/George 2005) to build explanatory statements. All of the questions outlined above can thus be tackled with this type of research design. Moreover, legal and empirical perspectives really go hand in hand here, since the evolving legal framework conditions the developments in political reality and vice-versa. A conceptual framework such as the one proposed in this article could equally be used for structuring such research, as it provides a clear guideline of what to look for at different points in time.

In contrast to research aimed at understanding and explaining, *normative research* relies to a lesser extent on empirical methods. The challenge for interdisciplinary normative research is, above all, one of analytically integrating legal and political science concepts. This implies combining both legal and political theories of legitimacy and developing a fairly coherent terminology. Such interdisciplinary research could tackle any of the normative questions outlined above. It only comes last on the proposed list of research strategies here because any research aimed at improving multilateral governance and the EU's performance therein should ideally pass by at least a thorough understanding of the main features of these. As has been illustrated, this condition is quite often not yet fulfilled.

In sum, we hope that these research designs can contribute to answering the type of questions raised here, as they display the necessary flexibility and openness to incorporate an interdisciplinary dimension and leave ample space for the integration of various types of theoretical perspectives. Theories have not played an important explicit part in this paper. Nevertheless, enhancing the explanatory power of the concepts presented here by embedding them in theoretical debates will, at some point, and depending on the available knowledge on the subject, be advantageous, if not necessary, for the proposed interdisciplinary research. Many concepts utilized within the framework of analysis presented in this article, especially the 'role' concept, would greatly benefit from being upgraded theoretically. A necessary precondition is that legal scholars have to be prepared to deal with the - sometimes confusing - theoretical richness that political science has on offer. Interesting discussions of how various types of theoretical approaches could be made fruitful for our subject of study have been presented elsewhere (Jørgensen 2006; Jørgensen /Oberthür/Shahin 2007).

Finally, as multilateral governance covers such a broad range of issues, the choice of cases to study is another point of consideration. No limits are set to the creativity and the specific interests of scholars here, but it should be borne in mind that some topics such as CFSP and trade issues have already been extensively treated, albeit usually not in an interdisciplinary manner. It would therefore be of interest to concentrate research efforts more on some under-researched areas in order to get to a broader picture of where the EU is active within and beyond the UN system. Topics could be chosen from the EU's involvement in multilateral fora dealing with human rights (Human Rights Council, Third Committee, International Criminal Court etc.), development issues (UN Development Programme, FAO, IMF, World Bank etc.), environmental issues (UNEP, various conferences such as the conferences of the parties of the UN Framework Convention on Climate Change etc.), social issues (Third Committee, International Labour Organization etc.), but also from less prominent cases such as public health governance on food safety (WHO, FAO etc.), from the fight against organised crime conducted under the auspices of various bodies or from science and technology governance on issues like space policy (Group on Earth Observation etc.).

All in all, the combination of shared research interests, potential common research questions and research designs leads to a comprehensive interdisciplinary research agenda. An overview of this is provided in Table 3.

Table 3: The EU and multilateral governance – towards an interdisciplinary research agenda

1. Some important shared research interests of legal and political science and examples of research questions

a. Understanding the EU's involvement in multilateral governance

Framework: *What are the legal and institutional frameworks of the multilateral body x? What are the relevant institutional structures within the EU for its participation in body y, on issue z?*

Processes: *How do multilateral negotiations function in UN body x? How does the EU take decisions in preparation for its participation in multilateral negotiations in forum y? How does the negotiation style affect outcomes of the negotiation process (hard law, soft law) and, vice-versa, how does the proposed outcome affect negotiation position and styles? How do the two negotiation arenas (EU internal and international level) link up?*

Agency: *How does EU representation in UN body b on issue a function? How does country y perceive the EU's participation in body z? What are the capacities and margins of manoeuvre of the EU, of country c,d,e in a given multilateral forum? How do EU negotiators and EU Member States coordinate under varying degrees of legal obligation to do so?*

b. Explaining trends of EU participation in multilateral governance

Framework: *Why has a specific set of institutions emerged to deal with issue x? Why has the EU been granted a specific legal status in forum y? What are the consequences of EU multilateral activity at the national, regional and international level?*

Processes: *Why has a certain negotiation style emerged in forum x and what is the contribution of the EU to this?*

Agency: *Why has the EU in some cases been recognized as a (unitary/powerful) actor and not in others? Why has the EU in some cases been successful in pushing its policy objectives through and not in others? Why does EU coordination/representation/participation in multilateral governance take so many different forms in different fora and why does it take these exact forms?*

c. Improving the democratic legitimacy (effectiveness/participation) of multilateral governance & the EU's contribution to this

Framework: *How can and should the legitimacy (effectiveness/participation) of multilateral governance be enhanced? How should multilateral arrangements be framed to better accommodate regional organisations?*

Processes: *How should procedures be improved to enable broader participation of various (non-state) actors at various stages in negotiation processes? Should procedures within the EU be made more transparent to enable better control of the National and/or the European Parliament(s)?*

Agency: *How should the EU act in multilateral fora to enhance the legitimacy of multilateral governance and its own legitimacy as a foreign policy actor? How could and should the EU assume more international responsibility?*

2. Possible pathways for interdisciplinary research: Some tentative research designs

- a. Empirical research
 - i. Single case studies
 - ii. Comparative studies
 - (1) multiple case studies
 - (2) regional comparison, e.g. EU with U.S./Mercosur etc.
 - iii. Longitudinal studies (chronologies, process-tracing)
- b. Normative research

5. CONCLUSION

As a fairly recent phenomenon, the EU's increasing participation in multilateral governance has so far been studied by both legal and political science and their respective sub-disciplines primarily from the perspective of their clearly de-limited field of study, producing top down (International Law) and bottom up (EU Law) legal analyses, and top down (IR) and bottom up (integration studies/ EU foreign policy analysis) political science accounts. The narrow foci of the resulting specialized bodies of literature have stood in the way of more integrative studies and have ultimately led to regrettable 'blind spots' in the research on this topic. Hence, ample room for alternative ways of approaching the subject exist.

One possible alternative can be seen in the combination of existing approaches, producing synergies by providing more holistic accounts and thus helping to eliminate the 'blind spots' mono-disciplinary research has left. In an attempt at integrating the research *acquis* of all four sub-disciplines affected, such an interdisciplinary framework of analysis has been brought forward and tried out on three case examples to evaluate its practicability.

This exercise has demonstrated that interdisciplinary research is both feasible and beneficial. It is feasible because, as the case illustrations have shown, it can build on common research interests of legal and political science scholars. The approaches taken by the two disciplines, despite the persistence of different terminologies, often really represent the two sides of the same coin. Secondly, joint research can be considered as beneficial to each discipline individually and for the understanding of the topic on the whole. For legal scholars, an opening towards political science terminology, empirical methodology and, possibly, theory may provide for a whole new tool-kit that could enable them to carry out more systematic studies to gain greater insights into political reality. On the other hand, political scientists could benefit from the greater clarity of legal foundations and guiding principles vis-à-vis case law, and specifically inspire themselves by the precision of terminology which is characteristic of the legal method.

Together, both disciplines may carry out analyses that yield more and different insights than mono-disciplinary research on the EU's position in multilateral governance because they provide a wholly new perspective. This type of 'holistic' research represents not only a value added for legal and political science, but may

also be of interest to practitioners in the EU and elsewhere, who, in their daily lives 'on the job' are confronted with problems situated on the cusp between the legal and the political spheres and do not possess the option of reducing complexity by analytically separating the two.

In addition to exposing common research interests of legal and political science scholars, the testing out of the framework has also revealed some additional research gaps. These gaps and the shared research concerns have been taken up to outline elements of an interdisciplinary research agenda, including desiderata, tentative research questions and potential joint research itineraries.

As the world evolves, and problems calling for collective solutions on the global level proliferate, activities falling under the definition of 'multilateral governance' become increasingly important. Furthermore, if the current trends are set forth, and nothing indicates that they should not, the EU will continue to develop as an actor in a growing number of multilateral fora. For academia, this means that the number of cases to study will keep on growing, augmenting also the need for a better understanding, explanation and of an improvement of these real-life phenomena.

In the face of these developments, interdisciplinary research on the border between legal and political science can be considered a key strategy when trying to keep up with the evolution of ever more complex global governance architectures. The analytical framework presented here constitutes a first, pre-theoretical attempt at constructing a workable tool for common research itineraries. Its greatest asset may be seen in its openness. It may be used flexibly for analyses of the EU in any type of multilateral forum, within and beyond the UN system – and may, if adapted, also be useful in the analysis of the EU's bilateral relations with third countries, other regional or international organizations. Furthermore, with slight adjustments, it could be imagined to analyse the performances of other regional actors, such as Mercosur, in multilateral governance with the help of the categories presented.

If anything, we hope that the presentation of this framework will stimulate a debate between legal and political science scholars on the desirability and the possibilities of constructing and conducting joint research on this highly pertinent topic.

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